

HOUSE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1511

1 AN ACT

2 To repeal sections 362.600, 456.010, 456.015,  
3 456.016, 456.020, 456.030, 456.040, 456.050,  
4 456.055, 456.060, 456.070, 456.072, 456.075,  
5 456.080, 456.090, 456.100, 456.110, 456.120,  
6 456.130, 456.140, 456.150, 456.160, 456.170,  
7 456.180, 456.183, 456.185, 456.187, 456.190,  
8 456.195, 456.200, 456.210, 456.220, 456.225,  
9 456.230, 456.232, 456.233, 456.234, 456.235,  
10 456.236, 456.240, 456.250, 456.260, 456.270,  
11 456.280, 456.290, 456.300, 456.310, 456.320,  
12 456.330, 456.340, 456.350, 456.400, 456.410,  
13 456.420, 456.430, 456.440, 456.450, 456.460,  
14 456.470, 456.480, 456.490, 456.500, 456.510,  
15 456.520, 456.524, 456.530, 456.535, 456.540,  
16 456.550, 456.560, 456.570, 456.580, 456.610,  
17 456.620, 456.630, 456.640, 456.650, 456.660,  
18 456.670, 456.900, 456.901, 456.902, 456.903,  
19 456.904, 456.905, 456.906, 456.907, 456.908,  
20 456.909, 456.910, 456.911, 456.912, 456.913,  
21 469.401, 469.409, 469.411, 469.419, 469.423,  
22 469.435, 469.449 and 469.453, RSMo, and to  
23 enact in lieu thereof one hundred fifty-one  
24 new sections relating to trust and estate  
25 administration.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
27 AS FOLLOWS:

28 Section A. Sections 362.600, 456.010, 456.015, 456.016,  
29 456.020, 456.030, 456.040, 456.050, 456.055, 456.060, 456.070,  
30 456.072, 456.075, 456.080, 456.090, 456.100, 456.110, 456.120,

1 456.130, 456.140, 456.150, 456.160, 456.170, 456.180, 456.183,  
2 456.185, 456.187, 456.190, 456.195, 456.200, 456.210, 456.220,  
3 456.225, 456.230, 456.232, 456.233, 456.234, 456.235, 456.236,  
4 456.240, 456.250, 456.260, 456.270, 456.280, 456.290, 456.300,  
5 456.310, 456.320, 456.330, 456.340, 456.350, 456.400, 456.410,  
6 456.420, 456.430, 456.440, 456.450, 456.460, 456.470, 456.480,  
7 456.490, 456.500, 456.510, 456.520, 456.524, 456.530, 456.535,  
8 456.540, 456.550, 456.560, 456.570, 456.580, 456.610, 456.620,  
9 456.630, 456.640, 456.650, 456.660, 456.670, 456.900, 456.901,  
10 456.902, 456.903, 456.904, 456.905, 456.906, 456.907, 456.908,  
11 456.909, 456.910, 456.911, 456.912, 456.913, 469.401, 469.409,  
12 469.411, 469.419, 469.423, 469.435, 469.449 and 469.453, are  
13 repealed and one hundred fifty-one new sections enacted in lieu  
14 thereof, to be known as sections 362.600, 456.1-101, 456.1-102,  
15 456.1-103, 456.1-104, 456.1-105, 456.1-106, 456.1-107, 456.1-108,  
16 456.1-109, 456.1-110, 456.1-111, 456.1-112, 456.2-201, 456.2-202,  
17 456.2-204, 456.3-301, 456.3-302, 456.3-303, 456.3-304, 456.3-305,  
18 456.4-401, 456.4-402, 456.4-403, 456.4-404, 456.4-405, 456.4-406,  
19 456.4-407, 456.4-408, 456.4-409, 456.4-410, 456.4-411A, 456.4-  
20 411B, 456.4-412, 456.4-413, 456.4-414, 456.4-415, 456.4-416,  
21 456.4-417, 456.5-501, 456.5-502, 456.5-503, 456.5-504, 456.5-505,  
22 456.5-506, 456.5-507, 456.6-601, 456.6-602, 456.6-603, 456.6-604,  
23 456.7-701, 456.7-702, 456.7-703, 456.7-704, 456.7-705, 456.7-706,  
24 456.7-707, 456.7-708, 456.7-709, 456.8-801, 456.8-802, 456.8-803,  
25 456.8-804, 456.8-805, 456.8-806, 456.8-807, 456.8-808, 456.8-809,

1 456.8-810, 456.8-811, 456.8-812, 456.8-813, 456.8-814, 456.8-815,  
2 456.8-816, 456.8-817, 456.10-1001, 456.10-1002, 456.10-1003,  
3 456.10-1004, 456.10-1005, 456.10-1006, 456.10-1007, 456.10-1008,  
4 456.10-1009, 456.10-1010, 456.10-1011, 456.10-1012, 456.10-1013,  
5 456.11-1101, 456.11-1102, 456.11-1103, 456.11-1104, 456.11-1106,  
6 456.001, 456.003, 456.005, 456.007, 456.009, 456.011, 456.013,  
7 456.015, 456.017, 456.019, 456.021, 456.023, 456.025, 456.027,  
8 456.029, 456.031, 456.033, 456.035, 456.037, 456.039, 456.041,  
9 469.240, 469.250, 469.260, 469.270, 469.280, 469.290, 469.300,  
10 469.310, 469.320, 469.330, 469.340, 469.350, 469.401, 469.402,  
11 469.409, 469.411, 469.419, 469.423, 469.435, 469.449, 469.453,  
12 469.900, 469.901, 469.902, 469.903, 469.904, 469.905, 469.906,  
13 469.907, 469.908, 469.909, 469.910, 469.911, 469.912, 469.913,  
14 and 1, to read as follows:

15 362.600. 1. The term "foreign corporation", as used in  
16 this section, shall mean:

17 (1) Any bank or other corporation now or hereafter  
18 organized under the laws of any state of the United States other  
19 than Missouri; and

20 (2) Any national banking association having its principal  
21 place of business in any state of the United States other than  
22 Missouri.

23 2. Except as provided in subsection 5 of this section, any  
24 foreign corporation may act in this state as trustee, executor,  
25 administrator, guardian, or in any other like fiduciary capacity,

1 without the necessity of complying with any law of this state  
2 relating to the licensing of foreign banking corporations by the  
3 director of finance or relating to the qualifications of foreign  
4 corporations to do business in this state, and notwithstanding  
5 any prohibition, limitation or restriction contained in any other  
6 law of this state, provided only that:

7 (1) The foreign corporation is authorized to act in this  
8 fiduciary capacity or capacities in the state in which it is  
9 incorporated, or, if the foreign corporation be a national  
10 banking association, in which it has its principal place of  
11 business; and

12 (2) Any bank or other corporation organized under the laws  
13 of this state or a national banking association having its  
14 principal place of business in this state may act in these  
15 fiduciary capacities in that state without further showing or  
16 qualification, other than that it is authorized to act in these  
17 fiduciary capacities in this state and compliance with any law of  
18 that state concerning service of process:

19 (a) Which may require the appointment of an official or  
20 other person for the receipt of process; or

21 (b) Which contains provisions to the effect that any bank  
22 or other corporation, which is not incorporated under the laws of  
23 that state, or if a national bank then which does not have its  
24 principal place of business in that state, acting in that state  
25 in a fiduciary capacity pursuant to provisions of law making it

1 eligible to do so, shall be deemed to have appointed an official  
2 of that state to be its true and lawful attorney upon whom may be  
3 served all legal process in any action or proceeding against it  
4 relating to or growing out of any trust, estate or matter in  
5 respect of which the corporation has acted or is acting in that  
6 state in this fiduciary capacity, and that the acceptance of or  
7 engagement in that state in any acts in this fiduciary capacity  
8 shall be signification of its agreement that the process against  
9 it, which is so served, shall be of the same legal force and  
10 validity as though served upon it personally, or which contains  
11 any substantially similar provisions.

12 Any foreign corporation eligible to act in any fiduciary capacity  
13 in this state pursuant to the provisions of this section may so  
14 act whether or not a resident of this state be acting with it in  
15 this capacity, may use its corporate name in connection with such  
16 activity in this state, and may be appointed to act in this  
17 fiduciary capacity by any court having jurisdiction in the  
18 premises, all notwithstanding any provision of law to the  
19 contrary. Nothing in this section contained shall be construed  
20 to prohibit or make unlawful any activity in this state by a bank  
21 or other corporation which is not incorporated under the laws of  
22 this state, or if a national bank then which does not have its  
23 principal place of business in this state, which would be lawful  
24 in the absence of this section.

1           3. Except as provided in subsection 5 of this section,  
2 prior to the time when any foreign corporation acts pursuant to  
3 the authority of this section in any fiduciary capacity or  
4 capacities in this state, the foreign corporation shall file with  
5 the director of finance a written application for a certificate  
6 of reciprocity and the director of finance shall issue the  
7 certificate to the foreign corporation. The application shall  
8 state:

9           (1) The correct corporate name of the foreign corporation;

10           (2) The name of the state under the laws of which it is  
11 incorporated, or if the foreign corporation is a national banking  
12 association shall state that fact;

13           (3) The address of its principal business office;

14           (4) In what fiduciary capacity or capacities it desires to  
15 act, in the state of Missouri;

16           (5) That it is authorized to act in a similar fiduciary  
17 capacity or capacities in the state in which it is incorporated,  
18 or, if it is a national banking association, in which it has its  
19 principal place of business;

20           (6) That the application shall constitute the irrevocable  
21 appointment of the director of finance of Missouri as its true  
22 and lawful attorney to receive service of all legal process in  
23 any action or proceeding against it relating to or growing out of  
24 any trust, estate or matter in respect of which the foreign  
25 corporation may act in this state in the fiduciary capacity

1 pursuant to the certificate of reciprocity applied for;

2 (7) Unless the applicant is subject to the jurisdiction of  
3 the Office of Thrift Supervision, that the applicant has provided  
4 with the application a fiduciary bond in the amount of one  
5 million dollars for the benefit of the director of the division  
6 of finance in a format approved by the director of the division  
7 of finance.

8 The application shall be verified by an officer of the foreign  
9 corporation, and there shall be filed with it such certificates  
10 of public officials and copies of documents certified by public  
11 officials as may be necessary to show that the foreign  
12 corporation is authorized to act in a fiduciary capacity or  
13 capacities similar to those in which it desires to act in the  
14 state of Missouri, in the state in which it is incorporated, or,  
15 if it is a national banking association in which it has its  
16 principal place of business. The director of finance shall,  
17 thereupon, if the foreign corporation is one which may act in the  
18 fiduciary capacity or capacities as provided in subsection 2 of  
19 this section, issue to the corporation a certificate of  
20 reciprocity, retaining a duplicate thereof together with the  
21 application and accompanying documents in his or her office. The  
22 certificate of reciprocity shall recite and certify that the  
23 foreign corporation is eligible to act in this state pursuant to  
24 this section and shall recite the fiduciary capacity or

1 capacities in which the foreign corporation is eligible so to  
2 act.

3 4. A certificate of reciprocity issued to any foreign  
4 corporation shall remain in effect until the foreign corporation  
5 shall cease to be entitled under subsection 2 of this section to  
6 act in this state in the fiduciary capacity or capacities covered  
7 by the certificate, and thereafter until revoked by the director  
8 of finance. If at any time the foreign corporation shall cease  
9 to be entitled under subsection 2 of this section to act in this  
10 state in the fiduciary capacity or capacities covered by the  
11 certificate, the director of finance shall revoke the certificate  
12 and give written notice of the revocation to the foreign  
13 corporation. No revocation of any certificate of reciprocity  
14 shall affect the right of the foreign corporation to continue to  
15 act in this state in a fiduciary capacity in estates or matters  
16 in which it has theretofore begun to act in a fiduciary capacity  
17 pursuant to the certificate.

18 5. A foreign corporation shall not establish or maintain in  
19 this state a place of business, branch office or agency for the  
20 conduct in this state of business as a fiduciary unless:

21 (1) The foreign corporation is under the control of a  
22 Missouri bank or a Missouri bank holding company, as these terms  
23 are defined in section 362.925, and the foreign corporation has  
24 complied with the requirements relating to the qualifications of  
25 foreign corporations to do business in this state;



1           (2) The foreign corporation is a bank, trust company or  
2 national banking association in good standing that possesses  
3 fiduciary powers from its chartering authority and is the  
4 surviving corporation to a merger or consolidation with a  
5 national banking association located in Missouri or a Missouri  
6 bank or trust company. The provisions of this subdivision are  
7 enacted to implement subsection 2 of this section and section  
8 362.610, and the provisions of Title 12, U.S.C. 36(f)(2) of the  
9 National Bank Act; or

10           (3) The foreign corporation is a state-chartered bank,  
11 savings and loan association, trust company or national banking  
12 association in good standing that possesses fiduciary powers and  
13 has received a certificate of reciprocity, in which case it may  
14 only open a trust representative office in Missouri which is not  
15 otherwise a branch of such foreign corporation, provided a bank,  
16 savings and loan association or trust company chartered under the  
17 laws of Missouri and a national bank with its principal location  
18 in Missouri, all with fiduciary powers, are permitted to open and  
19 operate a trust representative office under the same or less  
20 restrictive conditions in the state in which the foreign  
21 corporation is organized or has its principal office.

22           6. A foreign corporation, insofar as it acts in a fiduciary  
23 capacity in this state pursuant to the provisions of this  
24 section, shall not be deemed to be transacting business in this  
25 state, if the foreign corporation does not establish or maintain

1 in this state a place of business, branch office, or agency for  
2 the conduct in this state of business as a fiduciary.

3 7. Every foreign corporation to which a certificate of  
4 reciprocity shall have been issued shall be deemed to have  
5 appointed the director of finance to be its true and lawful  
6 attorney upon whom may be served all legal process in any action  
7 or proceeding against it relating to or growing out of any trust,  
8 estate or matter in respect of which the foreign corporation acts  
9 in this state in any fiduciary capacity pursuant to the  
10 certificate of reciprocity. Service of the process shall be made  
11 by delivering a copy of the summons or other process, with a copy  
12 of the petition when service of the copy is required by law,  
13 together with a remittance of one dollar (to be taxed as costs in  
14 the action or proceeding), to the director of finance or to any  
15 person in his or her office authorized by him to receive the  
16 service. The director of finance shall immediately forward the  
17 process, together with the copy of the petition, if any, to the  
18 foreign corporation, by registered mail, addressed to it at the  
19 address on file with the director, or if there be none on file  
20 then at its last known address. The director of finance shall  
21 keep a permanent record in his or her office showing for all  
22 process served, the style of the action or proceeding, the court  
23 in which it was brought, the name and title of the officer  
24 serving the process, the day and hour of service, and the day of  
25 mailing by registered mail to the foreign corporation and the

1 address to which mailed. In case the process is issued by an  
2 associate circuit judge, the same may be directed to and served  
3 by any officer authorized to serve process in the city or county  
4 where the director of finance shall have his or her office, at  
5 least fifteen days before the return thereof.

6 456.1-101. Sections 456.1-101 to 456.11-1106 shall be known  
7 and may be cited as the "Missouri Uniform Trust Code".

8 456.1-102. Sections 456.1-101 to 456.11-1106 apply to  
9 express trusts, charitable or noncharitable, testamentary or  
10 inter vivos, and trusts created pursuant to a statute, judgment,  
11 or decree that requires the trust to be administered in the  
12 manner of an express trust. Sections 456.1-101 to 456.11-1106 do  
13 not apply to any trust created by the inherent power of the court  
14 pursuant to chapter 460, RSMo.

15 456.1-103. In sections 456.1-101 to 456.11-1106:

16 (1) "Action," with respect to an act of a trustee, includes  
17 a failure to act.

18 (2) "Beneficiary" means a person that:

19 (a) has a present or future beneficial interest in a trust,  
20 vested or contingent; or

21 (b) in a capacity other than that of trustee, holds a power  
22 of appointment over trust property.

23 (3) "Charitable trust" means a trust, or portion of a  
24 trust, created for a charitable purpose described in subsection 1  
25 of section 456.4-405.

1       (4) "Conservator" means a person described in subdivision  
2 (3) of section 475.010, RSMo. This term does not include a  
3 conservator ad litem.

4       (5) "Conservator ad litem" means a person appointed by the  
5 court pursuant to the provisions of section 475.097, RSMo.

6       (6) "Environmental law" means a federal, state, or local  
7 law, rule, regulation, or ordinance relating to protection of the  
8 environment.

9       (7) "Financial institution" means a non-foreign bank,  
10 savings and loan or trust company chartered, regulated and  
11 supervised by the Missouri division of finance, the office of the  
12 comptroller of the currency, the office of thrift supervision,  
13 the National Credit Union Administration, or the Missouri  
14 division of credit union supervision. The term "non-foreign  
15 bank" shall mean a bank that is not a foreign bank within the  
16 meaning of subdivision (1) of section 361.005, RSMo.

17       (8) "Guardian" means a person described in subdivision (6)  
18 of section 475.010, RSMo. The term does not include a guardian  
19 ad litem.

20       (9) "Interested persons" include beneficiaries and any  
21 others having a property right in or claim against a trust estate  
22 which may be affected by a judicial proceeding. It also includes  
23 fiduciaries and other persons representing interested persons.  
24 The meaning as it relates to particular persons may vary from  
25 time to time and must be determined according to the particular

1 purposes of, and matter involved in, any proceeding.

2 (10) "Interests of the beneficiaries" means the beneficial  
3 interests provided in the terms of the trust.

4 (11) "Internal Revenue Code" means the United States  
5 Internal Revenue Code of 1986, as in effect on January 1, 2005 or  
6 as later amended.

7 (12) "Jurisdiction," with respect to a geographic area,  
8 includes a State or country.

9 (13) "Person" means an individual, corporation, business  
10 trust, estate, trust, partnership, limited liability company,  
11 association, joint venture, government; governmental subdivision,  
12 agency, or instrumentality; public corporation, or any other  
13 legal or commercial entity.

14 (14) "Permissible distributee" means a beneficiary who is  
15 currently eligible to receive distributions of trust income or  
16 principal, whether mandatory or discretionary.

17 (15) "Power of withdrawal" means a presently exercisable  
18 general power of appointment other than a power exercisable only  
19 upon consent of the trustee or a person holding an adverse  
20 interest.

21 (16) "Principal place of administration" of a trust is the  
22 trustee's usual place of business where the records pertaining to  
23 the trust are kept, or the trustee's residence if the trustee has  
24 no such place of business, unless otherwise designated by the  
25 terms of the trust as provided in section 456.1-108. In the case

1 of cotrustees, the principal place of administration is, in the  
2 following order of priority:

3 (a) The usual place of business of the corporate trustee if  
4 there is but one corporate cotrustee;

5 (b) The usual place of business or residence of the trustee  
6 who is a professional fiduciary if there is but one such trustee  
7 and no corporate cotrustee; or

8 (c) The usual place of business or residence of any of the  
9 cotrustees.

10 (17) "Professional fiduciary" means an individual who  
11 represents himself or herself to the public as having specialized  
12 training, experience or skills in the administration of trusts.

13 (18) "Property" means anything that may be the subject of  
14 ownership, whether real or personal, legal or equitable, or any  
15 interest therein.

16 (19) "Qualified beneficiary" means a beneficiary who, on  
17 the date the beneficiary's qualification is determined:

18 (a) is a permissible distributee;

19 (b) would be a permissible distributee if the interests of  
20 the permissible distributees described in paragraph (a) of this  
21 subdivision terminated on that date; or

22 (c) would be a permissible distributee if the trust  
23 terminated on that date.

24 (20) "Record" means information that is inscribed on a  
25 tangible medium or that is stored in an electronic or other

1 medium and is retrievable in perceivable form.

2 (21) "Revocable," as applied to a trust, means revocable by  
3 the settlor without the consent of the trustee or a person  
4 holding an adverse interest.

5 (22) "Settlor" means a person, including a testator, who  
6 creates, or contributes property to, a trust. If more than one  
7 person creates or contributes property to a trust, each person is  
8 a settlor of the portion of the trust property attributable to  
9 that person's contribution except to the extent another person  
10 has the power to revoke or withdraw that portion pursuant to the  
11 terms of the trust.

12 (23) "Sign" means, with present intent to authenticate or  
13 adopt a record:

14 (a) to execute or adopt a tangible symbol; or

15 (b) to attach to or logically associate with the record an  
16 electronic sound, symbol, or process.

17 (24) "Spendthrift provision" means a term of a trust which  
18 restrains either the voluntary or involuntary transfer or both  
19 the voluntary and involuntary transfer of a beneficiary's  
20 interest.

21 (25) "State" means a State of the United States, the  
22 District of Columbia, Puerto Rico, the United States Virgin  
23 Islands, or any territory or insular possession subject to the  
24 jurisdiction of the United States. The term includes an Indian  
25 tribe or band recognized by federal law or formally acknowledged

1 by a State.

2 (26) "Terms of a trust" means the manifestation of the  
3 settlor's intent regarding a trust's provisions as expressed in  
4 the trust instrument or as may be established by other evidence  
5 that would be admissible in a judicial proceeding.

6 (27) "Trust instrument" means an instrument executed by the  
7 settlor that contains terms of the trust, including any  
8 amendments thereto.

9 (28) "Trustee" includes an original, additional, and  
10 successor trustee, and a cotrustee.

11 456.1-104. 1. Subject to subsection 2 of this section, a  
12 person has knowledge of a fact if the person:

13 (1) has actual knowledge of it;

14 (2) has received a notice or notification of it; or

15 (3) from all the facts and circumstances known to the  
16 person at the time in question, has reason to know it.

17 2. An organization that conducts activities through  
18 employees has notice or knowledge of a fact involving a trust  
19 only from the time the information was received by an employee  
20 having responsibility to act for the trust, or would have been  
21 brought to the employee's attention if the organization had  
22 exercised reasonable diligence. An organization exercises  
23 reasonable diligence if it maintains reasonable routines for  
24 communicating significant information to the employee having  
25 responsibility to act for the trust and there is reasonable



1 compliance with the routines. Reasonable diligence does not  
2 require an employee of the organization to communicate  
3 information unless the communication is part of the individual's  
4 regular duties or the individual knows a matter involving the  
5 trust would be materially affected by the information.

6 456.1-105. 1. Except as otherwise provided in the terms of  
7 the trust, sections 456.1-101 to 456.11-1106 governs the duties  
8 and powers of a trustee, relations among trustees, and the rights  
9 and interests of a beneficiary.

10 2. The terms of a trust prevail over any provision of  
11 sections 456.1-101 to 456.11-1106 except:

12 (1) the requirements for creating a trust;

13 (2) the duty of a trustee to act in good faith and in  
14 accordance with the purposes of the trust;

15 (3) the requirement that a trust and its terms be for the  
16 benefit of its beneficiaries;

17 (4) the power of the court to modify or terminate a trust  
18 under section 456.4-410, subsection 3 of section 456.4-411B, and  
19 sections 456.4-412 to 456.4-416;

20 (5) the effect of a spendthrift provision and the rights of  
21 certain creditors and assignees to reach a trust as provided in  
22 sections 456.5-501 to 456.5-507;

23 (6) the power of the court under section 456.7-702 to  
24 require, dispense with, or modify or terminate a bond;

25 (7) the power of the court under subsection 2 of section

1 456.7-708 to adjust a trustee's compensation specified in the  
2 terms of the trust which is unreasonably low or high;

3 (8) the duty to notify the permissible distributees of an  
4 irrevocable trust who have attained twenty-one years of age of  
5 the existence of the trust and of their rights to request  
6 trustee's reports and other information reasonably related to the  
7 administration of the trust;

8 (9) the duty to respond to the request of a qualified  
9 beneficiary of an irrevocable trust for trustee's reports and  
10 other information reasonably related to the administration of a  
11 trust;

12 (10) the effect of an exculpatory term under section  
13 456.10-1008;

14 (11) the rights under sections 456.10-1010 to 456.10-1013  
15 of a person other than a trustee or beneficiary;

16 (12) periods of limitation for commencing a judicial  
17 proceeding;

18 (13) the power of the court to take such action and  
19 exercise such jurisdiction as may be necessary in the interests  
20 of justice; and

21 (14) the venue for a judicial proceeding as provided in  
22 section 456.2-204.

23 456.1-106. The common law of trusts and principles of  
24 equity supplement sections 456.1-101 to 456.11-1106, except to  
25 the extent modified by sections 456.1-101 to 456.11-1106 or

1 another statute of this state.

2 456.1-107. The meaning and effect of the terms of a trust  
3 are determined by:

4 (1) the law of the jurisdiction designated in the terms  
5 unless the designation of that jurisdiction's law is contrary to  
6 a strong public policy of the jurisdiction having the most  
7 significant relationship to the matter at issue; or

8 (2) in the absence of a controlling designation in the  
9 terms of the trust, the law of the jurisdiction having the most  
10 significant relationship to the matter at issue.

11 456.1-108. 1. Without precluding other means for  
12 establishing a sufficient connection with the designated  
13 jurisdiction, terms of a trust designating the principal place of  
14 administration are valid and controlling if:

15 (1) a trustee's principal place of business is located in  
16 or a trustee is a resident of the designated jurisdiction; or

17 (2) all or part of the administration occurs in the  
18 designated jurisdiction.

19 2. Without precluding the right of the court to order,  
20 approve, or disapprove a transfer, the trustee may transfer the  
21 trust's principal place of administration to another State or to  
22 a jurisdiction outside of the United States that is appropriate  
23 to the trust's purposes, its administration, and the interests of  
24 the beneficiaries.

25 3. The trustee shall notify the qualified beneficiaries of

1 a proposed transfer of a trust's principal place of  
2 administration not less than sixty days before initiating the  
3 transfer. The notice of proposed transfer must include:

4 (1) the name of the jurisdiction to which the principal  
5 place of administration is to be transferred;

6 (2) the address and telephone number at the new location at  
7 which the trustee can be contacted;

8 (3) an explanation of the reasons for the proposed  
9 transfer;

10 (4) the date on which the proposed transfer is anticipated  
11 to occur; and

12 (5) the date, not less than sixty days after the giving of  
13 the notice, by which the qualified beneficiary must notify the  
14 trustee of an objection to the proposed transfer.

15 4. The authority of a trustee under this section to  
16 transfer a trust's principal place of administration without an  
17 order of a court terminates if a qualified beneficiary notifies  
18 the trustee of an objection to the proposed transfer on or before  
19 the date specified in the notice.

20 5. In connection with a transfer of the trust's principal  
21 place of administration, the trustee may transfer some or all of  
22 the trust property to a successor trustee designated in the terms  
23 of the trust or appointed pursuant to section 456.7-704.

24 456.1-109. 1. Notice to a person under sections 456.1-101  
25 to 456.11-1106 or the sending of a document to a person under

1 sections 456.1-101 to 456.11-1106 must be accomplished in a  
2 manner reasonably suitable under the circumstances and likely to  
3 result in receipt of the notice or document. Permissible methods  
4 of notice or for sending a document include first-class mail,  
5 personal delivery, delivery to the person's last known place of  
6 residence or place of business, or a properly directed electronic  
7 message.

8 2. Notice otherwise required under sections 456.1-101 to  
9 456.11-1106 or a document otherwise required to be sent under  
10 sections 456.1-101 to 456.11-1106 need not be provided to a  
11 person whose identity or location is unknown to and not  
12 reasonably ascertainable by the trustee.

13 3. Notice under sections 456.1-101 to 456.11-1106 or the  
14 sending of a document under sections 456.1-101 to 456.11-1106 may  
15 be waived by the person to be notified or sent the document.

16 4. Notice of a judicial proceeding must be given as  
17 provided in the applicable rules of civil procedure.

18 456.1-110. 1. A specified charitable organization or a  
19 person appointed to enforce a trust created for the care of an  
20 animal or another noncharitable purpose as provided in sections  
21 456.4-408 or 456.4-409 has the rights of a qualified beneficiary  
22 under sections 456.1-101 to 456.11-1106.

23 2. Except with respect to section 456.1-411B, the attorney  
24 general of this state has the rights of a qualified beneficiary  
25 with respect to an interest in a charitable trust having its

1 principal place of administration in this state if:

2 (1) a specified charitable organization is not entitled to  
3 a distribution from such interest; and

4 (2) distributions from the interest are payable in a manner  
5 that, if payable to an identifiable charitable entity, would  
6 qualify that entity as a specified charitable organization.

7 3. In this section a "specified charitable organization"  
8 means an identifiable charitable entity that, on the date that  
9 entity's qualification is determined:

10 (a) is a permissible distributee;

11 (b) would be a permissible distributee if the interests of  
12 the permissible distributees terminated on that date; or

13 (c) would be a permissible distributee if the trust  
14 terminated on that date.

15 4. No provision of this section shall limit the authority  
16 of the attorney general of this state to supervise and control  
17 charitable organizations.

18 456.1-111. 1. In this section, "interested persons" means  
19 persons whose consent would be required in order to achieve a  
20 binding settlement were the settlement to be approved by the  
21 court.

22 2. Except as otherwise provided in subsection 3 and 6 of  
23 this section, interested persons may enter into a binding  
24 nonjudicial settlement agreement with respect to any matter  
25 involving a trust.

1       3. A nonjudicial settlement agreement is valid only to the  
2 extent it does not violate a material purpose of the trust and  
3 includes terms and conditions that could be properly approved by  
4 the court under sections 456.1-101 to 456.11-1106 or other  
5 applicable law.

6       4. Matters that may be resolved by a nonjudicial settlement  
7 agreement include:

8       (1) the interpretation or construction of the terms of the  
9 trust;

10       (2) the approval of a trustee's report or accounting;

11       (3) direction to a trustee to refrain from performing a  
12 particular act or the grant to a trustee of any necessary or  
13 desirable power;

14       (4) the resignation or appointment of a trustee and the  
15 determination of a trustee's compensation;

16       (5) transfer of a trust's principal place of  
17 administration; and

18       (6) liability of a trustee for an action relating to the  
19 trust.

20       5. Any interested person may request the court to approve a  
21 nonjudicial settlement agreement, to determine whether the  
22 representation as provided in sections 456.3-301 to 456.3-305 was  
23 adequate, and to determine whether the agreement contains terms  
24 and conditions the court could have properly approved.

25       6. A nonjudicial settlement agreement may not be used to

1 terminate or modify a trust for the reasons that a court could  
2 terminate or modify a trust as set forth in subsection 1 of  
3 section 456.4-411B.

4 456.1-112. 1. If a settlor's marriage is dissolved or  
5 annulled, any beneficial terms of a trust in favor of the  
6 settlor's former spouse or any fiduciary appointment of the  
7 settlor's former spouse is revoked on the date the marriage is  
8 dissolved or annulled, whether or not the terms of the trust  
9 refer to marital status. The terms of the trust shall be given  
10 effect as if the former spouse had died immediately before the  
11 date the dissolution or annulment became final. This subsection  
12 shall also apply to any beneficial interest or fiduciary  
13 appointment in favor of a relative of the settlor's former spouse  
14 as if such relative were the former spouse.

15 2. Subsection 1 of this section does not apply to the terms  
16 of a trust that provide any beneficial interest or fiduciary  
17 appointment for a former spouse or a relative of a former spouse  
18 that was created after the marriage was dissolved or annulled, or  
19 that expressly states that marriage dissolution or annulment  
20 shall not affect the designation of a former spouse or relative  
21 of a former spouse as a beneficiary or a fiduciary of the trust.

22 3. A court may order or the settlor and the spouse may  
23 agree before, during, or after the marriage in a binding contract  
24 or settlement agreement that Subsection 1 of this section does  
25 not apply to a beneficial interest or fiduciary appointment.



1        4. Any terms of a trust revoked solely by this section are  
2 revived by the settlor's remarriage to the former spouse or by a  
3 nullification of the marriage dissolution or annulment.

4        5. In this section, "a relative of the settlor's former  
5 spouse" means an individual who is related to the settlor's  
6 former spouse by blood, adoption or affinity and who, after the  
7 divorce or annulment, is not related to the settlor by blood,  
8 adoption or affinity.

9        456.2-201. 1. The court may intervene in the  
10 administration of a trust to the extent its jurisdiction is  
11 invoked by an interested person or as provided by law.

12        2. A trust is not subject to continuing judicial  
13 supervision unless ordered by the court.

14        3. A judicial proceeding involving a trust may relate to  
15 any matter involving the trust's administration, including a  
16 request for instructions and an action to declare rights.

17        456.2-202. 1. By accepting the trusteeship of a trust  
18 having its principal place of administration in this state or by  
19 moving the principal place of administration to this state, the  
20 trustee submits personally to the jurisdiction of the courts of  
21 this State regarding the administration of the trust during any  
22 period that the principal place of administration is located in  
23 this state.

24        2. With respect to their interests in the trust, the  
25 beneficiaries of a trust having its principal place of

1 administration in this state are subject to the jurisdiction of  
2 the courts of this state regarding any proceeding involving the  
3 administration of the trust. By accepting a distribution from  
4 such a trust, the recipient submits personally to the  
5 jurisdiction of the courts of this state regarding any proceeding  
6 involving the administration of the trust.

7 3. A judicial proceeding involving a trust may relate to  
8 any matter involving the trust's administration, including, but  
9 not limited to a proceeding to:

10 (1) request instructions or declare rights;

11 (2) approve a nonjudicial settlement;

12 (3) interpret or construe the terms of the trust;

13 (4) determine the validity of a trust or of any of its  
14 terms;

15 (5) approve a trustee's report or accounting or compel a  
16 trustee to report or account;

17 (6) direct a trustee to refrain from performing a  
18 particular act or grant to a trustee any necessary or desirable  
19 power;

20 (7) review the actions of a trustee, including the exercise  
21 of a discretionary power;

22 (8) accept the resignation of a trustee;

23 (9) appoint or remove a trustee;

24 (10) determine a trustee's compensation;

25 (11) determine the liability of a trustee for an action

1 relating to the trust and compel redress of a breach of trust by  
2 any available remedy;

3 (12) modify or terminate a trust;

4 (13) combine trusts or divide a trust;

5 (14) determine liability of a trust for debts of a  
6 beneficiary and living settlor;

7 (15) approve employment and compensation of agents;

8 (16) determine the propriety of investments or of principal  
9 and income allocations;

10 (17) ascertain the identity of trust beneficiaries or the  
11 respective beneficial interests of trust beneficiaries;

12 (18) release of trust registration or change of the trust's  
13 principal place of administration;

14 (19) determine the timing and quantity of distributions and  
15 dispositions of assets;

16 (20) determine the validity and effect of alienations by  
17 beneficiaries, by exercise of powers of appointment or otherwise;  
18 or

19 (21) appoint a representative for a beneficiary.

20 4. This section does not preclude other methods of  
21 obtaining jurisdiction over a trustee, beneficiary, or other  
22 person receiving property from the trust.

23 456.2-204. 1. Venue for judicial proceedings involving the  
24 internal affairs of a trust shall be:

25 (1) For a trust then registered in this State, in the

1 probate division of the circuit court where the trust is  
2 registered; or

3 (2) For a trust not then registered in this State, in the  
4 probate division of the circuit court where the trust could  
5 properly be registered; or

6 (3) For a trust not then registered in this State and which  
7 cannot properly be registered in this State, in accordance with  
8 the rules of civil procedure.

9 2. Where a judicial proceeding under this chapter could be  
10 maintained in more than one place in this state, the court in  
11 which the proceeding is first commenced has the exclusive right  
12 to proceed.

13 3. If proceedings concerning the same trust are commenced  
14 in more than one court of this State, the court in which the  
15 proceeding was first commenced shall continue to hear the matter,  
16 and the other courts shall hold the matter in abeyance until the  
17 question of venue is decided, and if the court in which the  
18 proceeding was first commenced determines that venue is properly  
19 in another court, it shall transfer the proceeding to the other  
20 court.

21 4. If a court finds that in the interest of justice a  
22 proceeding or a file should be located in another court of this  
23 State, the court making the finding may transfer the proceeding  
24 or file to the other court.

25 456.3-301. 1. Notice to a person who may represent and

1 bind another person under sections 456.3-301 to 456.3-305 has the  
2 same effect as if notice were given directly to the other person.

3 2. The consent of a person who may represent and bind  
4 another person under sections 456.3-301 to 456.3-305 is binding  
5 on the person represented unless the person represented objects  
6 to the representation before the consent would otherwise have  
7 become effective.

8 3. Except as otherwise provided in sections 456.4-411A and  
9 456.6-602, a person who under sections 456.3-301 to 456.3-305 may  
10 represent a settlor who lacks capacity may receive notice and  
11 give a binding consent on the settlor's behalf.

12 456.3-302. The holder of a testamentary power of  
13 appointment may represent and bind persons whose interests, as  
14 permissible appointees, takers in default, or otherwise, are  
15 subject to the power.

16 In this section "testamentary power of appointment" means a  
17 testamentary power of appointment exercisable without the consent  
18 of the creator of the power or person holding an adverse interest  
19 in favor of:

20 (1) a class of appointees that includes the holder, the  
21 holder's estate, the holder's creditors, or the creditors of the  
22 holder's estate; or

23 (2) all persons other than the holder, the holder's estate,  
24 the holder's creditor's, or the creditors of the holder's estate.

1        456.3-303. To the extent there is no conflict of interest  
2        between the representative and the person represented or among  
3        those being represented with respect to a particular question or  
4        dispute:

5            (1) a conservator may represent and bind the estate that  
6            the conservator controls;

7            (2) a conservator ad litem may represent and bind the ward  
8            with respect to a particular question or dispute over which a  
9            conservator does not have authority;

10           (3) a guardian may represent and bind the ward with respect  
11           to a particular question or dispute if a conservator or  
12           conservator ad litem is not authorized to act with respect to  
13           that particular question or dispute;

14           (4) a parent may represent and bind the parent's minor or  
15           unborn child if a conservator, conservator ad litem, or guardian  
16           for the child has not been appointed;

17           (5) an agent having authority to act with respect to the  
18           particular question or dispute may represent and bind the  
19           principal;

20           (6) a trustee may represent and bind the beneficiaries of  
21           the trust; and

22           (7) a personal representative of a decedent's estate may  
23           represent and bind persons interested in the estate.

24        456.3-304. Unless otherwise represented, a minor,  
25        incapacitated, or unborn individual, or a person whose identity

1 or location is unknown and not reasonably ascertainable, may be  
2 represented by and bound by another having a substantially  
3 identical interest with respect to the particular question or  
4 dispute, but only to the extent there is no conflict of interest  
5 between the representative and the person represented.

6 456.3-305. 1. If the court determines that an interest is  
7 not represented under sections 456.3-301 to 456.3-305 or that the  
8 otherwise available representation might be inadequate, the court  
9 may appoint a representative to receive notice, give consent, and  
10 otherwise represent, bind, and act on behalf of a minor,  
11 incapacitated, or unborn individual, or a person whose identity  
12 or location is unknown. A representative may be appointed to  
13 represent several persons or interests.

14 2. A representative may act on behalf of the individual  
15 represented with respect to any matter arising under sections  
16 456.1-101 to 456.11-1106, whether or not a judicial proceeding  
17 concerning the trust is pending.

18 3. In making decisions, a representative may consider  
19 general benefit accruing to the living members of the  
20 individual's family.

21 456.4-401. A trust may be created by:

22 (1) transfer of property to another person as trustee  
23 during the settlor's lifetime or by will or other disposition  
24 taking effect upon the settlor's death;

25 (2) declaration by the owner of property that the owner

1 holds identifiable property as trustee;

2 (3) exercise of a power of appointment in favor of a  
3 trustee; or

4 (4) a court under section 475.092, 475.093, or 511.030,  
5 RSMo.

6 456.4-402. 1. Other than for a trust created by section  
7 475.092, 475.093, or 511.030, RSMo, a trust is created only if:

8 (1) the settlor has capacity to create a trust;

9 (2) the settlor indicates an intention to create the trust;

10 (3) the trust has a definite beneficiary or is:

11 (a) a charitable trust;

12 (b) a trust for the care of an animal, as provided in  
13 section 456.4-408; or

14 (c) a trust for a noncharitable purpose, as provided in  
15 section 456.4-409;

16 (4) the trustee has duties to perform; and

17 (5) the same person is not the sole trustee and sole  
18 beneficiary.

19 2. A beneficiary is definite if the beneficiary can be  
20 ascertained now or in the future, subject to any applicable rule  
21 against perpetuities.

22 3. A power in a trustee to select a beneficiary from an  
23 indefinite class is valid. If the power is not exercised within  
24 a reasonable time, the power fails and the property subject to  
25 the power passes to the persons who would have taken the property



1 had the power not been conferred.

2 456.4-403. A trust not created by will is validly created  
3 if its creation complies with the law of the jurisdiction in  
4 which the trust instrument was executed, or the law of the  
5 jurisdiction in which, at the time of creation:

6 (1) the settlor was domiciled, had a place of abode, or was  
7 a national;

8 (2) a trustee was domiciled or had a place of business; or

9 (3) any trust property was located.

10 456.4-404. A trust may be created only to the extent its  
11 purposes are lawful, not contrary to public policy, and possible  
12 to achieve. A trust and its terms must be for the benefit of its  
13 beneficiaries.

14 456.4-405. 1. A charitable trust may be created for the  
15 relief of poverty, the advancement of education or religion, the  
16 promotion of health, governmental or municipal purposes, or other  
17 purposes the achievement of which is beneficial to the community.

18 2. If the terms of a charitable trust do not indicate a  
19 particular charitable purpose or beneficiary, the court may  
20 select one or more charitable purposes or beneficiaries. The  
21 selection must be consistent with the settlor's intention to the  
22 extent it can be ascertained.

23 3. The settlor of a charitable trust, among others, may  
24 maintain a proceeding to enforce the trust.

25 456.4-406. A trust is void to the extent its creation was

1 induced by fraud, duress, or undue influence.

2 456.4-407. 1. Except as provided in subsection 2 of this  
3 section, a trust need not be evidenced by a trust instrument, but  
4 the creation of an oral trust and its terms may be established  
5 only by clear and convincing evidence.

6 2. Other than for a conveyance by which a trust may arise  
7 or result by the implication or construction of law, all  
8 declarations or creations of trust of any lands, tenements or  
9 hereditaments shall be manifested and proved by some writing  
10 signed by the party who is, or shall be, by law, enabled to  
11 declare such trusts, or by the party's last will, in writing, or  
12 else they shall be void.

13 456.4-408. 1. A trust may be created to provide for the  
14 care of an animal alive during the settlor's lifetime. The trust  
15 terminates upon the death of the animal or, if the trust was  
16 created to provide for the care of more than one animal alive  
17 during the settlor's lifetime, upon the death of the last  
18 surviving animal.

19 2. A trust authorized by this section may be enforced by a  
20 person appointed in the terms of the trust or, if no person is so  
21 appointed, by a person appointed by the court. A person having  
22 an interest in the welfare of the animal may request the court to  
23 appoint a person to enforce the trust or to remove a person  
24 appointed.

25 3. Property of a trust authorized by this section may be

1 applied only to its intended use, except to the extent the court  
2 determines that the value of the trust property exceeds the  
3 amount required for the intended use. Except as otherwise  
4 provided in the terms of the trust, property not required for the  
5 intended use must be distributed to the settlor, if then living,  
6 otherwise to the settlor's successors in interest.

7 456.4-409. Except as otherwise provided in section 456.4-  
8 408 or by another statute, the following rules apply:

9 (1) A trust may be created for a noncharitable purpose  
10 without a definite or definitely ascertainable beneficiary or for  
11 a noncharitable but otherwise valid purpose to be selected by the  
12 trustee. The trust may not be enforced for more than twenty-one  
13 years.

14 (2) A trust authorized by this section may be enforced by a  
15 person appointed in the terms of the trust or, if no person is so  
16 appointed, by a person appointed by the court.

17 (3) Property of a trust authorized by this section may be  
18 applied only to its intended use, except to the extent the court  
19 determines that the value of the trust property exceeds the  
20 amount required for the intended use. Except as otherwise  
21 provided in the terms of the trust, property not required for the  
22 intended use must be distributed to the settlor, if then living,  
23 otherwise to the settlor's successors in interest.

24 456.4-410. 1. In addition to the methods of termination  
25 prescribed by sections 456.4-411A to 456.4-414, a trust

1 terminates to the extent the trust is revoked or expires pursuant  
2 to its terms, no purpose of the trust remains to be achieved, or  
3 the purposes of the trust have become unlawful, contrary to  
4 public policy, or impossible to achieve.

5 2. A proceeding to approve or disapprove a proposed  
6 modification or termination under sections 456.4-411A to 456.4-  
7 416, or trust combination or division under section 456.4-417,  
8 may be commenced by a trustee or beneficiary, and a proceeding to  
9 approve or disapprove a proposed modification or termination  
10 under section 456.4-411A may be commenced by the settlor. The  
11 settlor of a charitable trust may maintain a proceeding to modify  
12 the trust under section 456.4-413.

13 456.4-411A. 1. A noncharitable irrevocable trust may be  
14 modified or terminated upon consent of the settlor and all  
15 beneficiaries, without court approval, even if the modification  
16 or termination is inconsistent with a material purpose of the  
17 trust. A settlor's power to consent to a trust's termination or  
18 modification may be exercised by an agent under a power of  
19 attorney only to the extent expressly authorized by the power of  
20 attorney or the terms of the trust; by the settlor's conservator  
21 with the approval of the court supervising the conservatorship if  
22 an agent is not so authorized; or by the settlor's conservator ad  
23 litem with the approval of the court if an agent is not so  
24 authorized and a conservator has not been appointed.

25 2. Upon termination of a trust under subsection 1 of this

1 section, the trustee shall distribute the trust property as  
2 agreed by the beneficiaries.

3 3. If not all of the beneficiaries consent to a proposed  
4 modification or termination of the trust under subsection 1 of  
5 this section, the modification or termination may be approved by  
6 the court if the court is satisfied that:

7 (1) if all of the beneficiaries had consented, the trust  
8 could have been modified or terminated under subsection 1 of this  
9 section; and

10 (2) the interests of a beneficiary who does not consent  
11 will be adequately protected.

12 456.4-411B. 1. When all of the adult beneficiaries having  
13 the capacity to contract consent, the court may, upon finding  
14 that the interest of any nonconsenting beneficiary will be  
15 adequately protected, modify the terms of a noncharitable  
16 irrevocable trust so as to reduce or eliminate the interests of  
17 some beneficiaries and increase those of others, change the times  
18 or amounts of payments and distributions to beneficiaries, or  
19 provide for termination of the trust at a time earlier or later  
20 than that specified by its terms. The court may at any time upon  
21 its own motion appoint a representative pursuant to section  
22 456.3-305 to represent a nonconsenting beneficiary. The court  
23 shall appoint such a representative upon the motion of any party,  
24 unless the court determines such an appointment is not  
25 appropriate under the circumstances.

1        2. Upon termination of a trust under subsection 1 of this  
2        section, the trustee shall distribute the trust property as  
3        directed by the court.

4        3. If a trust cannot be terminated or modified under  
5        subsection 1 of this section because not all adult beneficiaries  
6        having capacity to contract consent or the terms of the trust  
7        prevent such modification or termination, the modification or  
8        termination may be approved by the court if the court is  
9        satisfied that the interests of a beneficiary, other than the  
10       settlor, who does not consent will be adequately protected,  
11       modification or termination will benefit a living settlor who is  
12       also a beneficiary, and:

13       (1) in the case of a termination, the party seeking  
14       termination establishes that continuance of the trust is not  
15       necessary to achieve any material purpose of the trust; or

16       (2) in the case of a modification, the party seeking  
17       modification establishes that the modification is not  
18       inconsistent with a material purpose of the trust, and the  
19       modification is not specifically prohibited by the terms of the  
20       trust.

21       4. This section shall apply to trusts created on or after  
22       January 1, 2005. The provisions of section 456.590 shall apply  
23       to all trusts created prior to January 1, 2005.

24       456.4-412. 1. The court may modify the dispositive terms  
25       of a trust or terminate the trust if, because of circumstances

1 not anticipated by the settlor, modification or termination will  
2 further the purposes of the trust. To the extent practicable,  
3 the modification must be made in accordance with the settlor's  
4 probable intention.

5 2. The court may modify the management or administrative  
6 terms of a trust if modification will further the purposes of the  
7 trust.

8 3. Upon termination of a trust under this section, the  
9 trustee shall distribute the trust property in a manner  
10 consistent with the purposes of the trust.

11 456.4-413. 1. Except as otherwise provided in subsection 2  
12 of this section, if a particular charitable purpose becomes  
13 unlawful, impracticable, impossible to achieve, or wasteful:

14 (1) the trust does not fail, in whole or in part;

15 (2) the trust property does not revert to the settlor or  
16 the settlor's successors in interest; and

17 (3) the court may apply cy pres to modify or terminate the  
18 trust by directing that the trust property be applied or  
19 distributed, in whole or in part, in a manner consistent with the  
20 settlor's charitable purposes.

21 2. A provision in the terms of a charitable trust that  
22 would result in distribution of the trust property to a  
23 noncharitable beneficiary prevails over the power of the court  
24 under subsection 1 of this section to apply cy pres to modify or  
25 terminate the trust only if, when the provision takes effect:

1       (1) the trust property is to revert to the settlor and the  
2 settlor is still living; or

3       (2) fewer than twenty-one years have elapsed since the date  
4 of the trust's creation.

5       456.4-414. 1. After notice to the qualified beneficiaries,  
6 the trustee of a trust consisting of trust property having a  
7 total value less than one hundred thousand dollars may terminate  
8 the trust if the trustee concludes that the value of the trust  
9 property is insufficient to justify the cost of administration.

10       2. The court may modify or terminate a trust or remove the  
11 trustee and appoint a different trustee if it determines that the  
12 value of the trust property is insufficient to justify the cost  
13 of administration.

14       3. Upon termination of a trust under this section, the  
15 trustee shall distribute the trust property in a manner  
16 consistent with the purposes of the trust.

17       4. This section does not apply to an easement for  
18 conservation or preservation.

19       456.4-415. The court may reform the terms of a trust, even  
20 if unambiguous, to conform the terms to the settlor's intention  
21 if it is proved by clear and convincing evidence that both the  
22 settlor's intent and the terms of the trust were affected by a  
23 mistake of fact or law, whether in expression or inducement.

24       456.4-416. To achieve the settlor's tax objectives, the  
25 court may modify the terms of a trust in a manner that is not



1 contrary to the settlor's probable intention. The court may  
2 provide that the modification has retroactive effect.

3 456.4-417. After notice to the qualified beneficiaries, a  
4 trustee may combine two or more trusts into a single trust or  
5 divide a trust into two or more separate trusts, if the result  
6 does not impair rights of any beneficiary or adversely affect  
7 achievement of the purposes of the trust. The terms of each new  
8 trust created by a division under this section do not have to be  
9 identical if the interest of each beneficiary is substantially  
10 the same under the terms of the trust prior to its division and  
11 the combined terms of all trusts after the division. Two or more  
12 trusts may be combined into a single trust if the interests of  
13 each beneficiary in the trust resulting from the combination are  
14 substantially the same as the combined interests of the  
15 beneficiary in the trusts prior to the combination. The trustee  
16 shall determine the terms controlling any trust after its  
17 combination as authorized by this section.

18 456.5-501. To the extent a beneficiary's interest is not  
19 protected by a spendthrift provision, an assignee or a judgment  
20 creditor of the beneficiary may, without court order, reach the  
21 beneficiary's interest by attachment of present or future  
22 distributions to or for the benefit of the beneficiary or other  
23 means. The court may limit the award to such relief as is  
24 appropriate under the circumstances.

25 456.5-502. 1. A spendthrift provision is valid if it

1 restrains either the voluntary or involuntary transfer or both  
2 the voluntary and involuntary transfer of a beneficiary's  
3 interest.

4 2. A term of a trust providing that the interest of a  
5 beneficiary is held subject to a "spendthrift trust," or words of  
6 similar import, is sufficient to restrain both voluntary and  
7 involuntary transfers of the beneficiary's interest.

8 3. A beneficiary may not transfer an interest in a trust in  
9 violation of a valid spendthrift provision and, except as  
10 otherwise provided in sections 456.5-501 to 456.5-507, a creditor  
11 or assignee of the beneficiary may not reach the interest or a  
12 distribution by the trustee before its receipt by the  
13 beneficiary.

14 456.5-503. 1. In this section,

15 (1) "Child" includes any person for whom an order or  
16 judgment for child support has been entered in this or another  
17 State, and

18 (2) "Judgment" means a judgment which may be executed in  
19 this State.

20 2. Even if a trust contains a spendthrift provision, a  
21 beneficiary's child, spouse, or former spouse who has a judgment  
22 against the beneficiary for support or maintenance, or a judgment  
23 creditor who has provided services for the protection of a  
24 beneficiary's interest in the trust, may obtain from a court an  
25 order attaching present or future trust income. If there is more

1 than one permissible distributee, the court may grant relief as  
2 is equitable under the circumstances.

3 3. A spendthrift provision is unenforceable against a claim  
4 of this State or the United States to the extent a statute of  
5 this state or federal law so provides.

6 456.5-504. 1. Except as otherwise provided in section  
7 456.5-503, whether or not a trust contains a spendthrift  
8 provision, a creditor of a beneficiary may not compel a  
9 distribution that is subject to the trustee's discretion, even  
10 if:

11 (1) the discretion is expressed in the form of a standard  
12 of distribution; or

13 (2) the trustee has abused the discretion.

14 2. This section does not limit the right of a beneficiary  
15 to maintain a judicial proceeding against a trustee for an abuse  
16 of discretion or failure to comply with a standard for  
17 distribution.

18 456.5-505. 1. Whether or not the terms of a trust contain  
19 a spendthrift provision, during the lifetime of the settlor, the  
20 property of a revocable trust is subject to claims of the  
21 settlor's creditors.

22 2. With respect to an irrevocable trust without a  
23 spendthrift provision, a creditor or assignee of the settlor may  
24 reach the maximum amount that can be distributed to or for the  
25 settlor's benefit. If a trust has more than one settlor, the

1 amount the creditor or assignee of a particular settlor may reach  
2 may not exceed the settlor's interest in the portion of the trust  
3 attributable to that settlor's contribution.

4 3. With respect to an irrevocable trust with a spendthrift  
5 provision, a spendthrift provision will prevent the settlor's  
6 creditors from satisfying claims from the trust assets except:  
7 (1) Where the conveyance of assets to the trust was fraudulent  
8 as to creditors pursuant to the provisions of Chapter 428, RSMo;  
9 or

10 (2) To the extent of the settlor's beneficial interest in  
11 the trust assets, if at the time the trust became irrevocable:

12 (a) The settlor was the sole beneficiary of either the  
13 income or principal of the trust or retained the power to amend  
14 the trust; or

15 (b) The settlor was one of a class of beneficiaries and  
16 retained a right to receive a specific portion of the income or  
17 principal of the trust that was determinable solely from the  
18 provisions of the trust instrument.

19 4. Any trustee who has a duty or power to pay the debts of  
20 a deceased settlor may publish a notice in some newspaper  
21 published in the county once a week for four consecutive weeks in  
22 substantially the following form:

23 To all persons interested in the estate of \_\_\_\_\_,  
24 decedent. The undersigned \_\_\_\_\_ is acting as  
25 Trustee under a trust the terms of which provide that the debts

1 of the decedent may be paid by the Trustee(s) upon receipt of  
2 proper proof thereof. The address of the Trustee  
3 is\_\_\_\_\_.

4 All creditors of the decedent are noticed to present their claims  
5 to the undersigned within six (6) months from the date of the  
6 first publication of this notice or be forever barred.

7 \_\_\_\_\_  
8 Trustee

9 (1) If such publication is duly made by the trustee, any  
10 debts not presented to the trustee within six months from the  
11 date of the first publication of the preceding notice shall be  
12 forever barred as against the trustee and the trust property.

13 (2) A trustee shall not be liable to account to the  
14 decedent's personal representative under the provisions of  
15 section 461.300, RSMo, by reason of any debt barred under the  
16 provisions of this subsection.

17 5. For purposes of this section:

18 (1) during the period the power may be exercised, the  
19 holder of a power of withdrawal is treated in the same manner as  
20 the settlor of a revocable trust to the extent of the property  
21 subject to the power; and

22 (2) upon the lapse, release, or waiver of the power, the  
23 holder is treated as the settlor of the trust only to the extent

1 the value of the property affected by the lapse, release, or  
2 waiver exceeds the greater of the amount specified in sections  
3 2041(b)(2), 2514(e) or 2503(b) of the Internal Revenue Code.

4 6. This section shall not apply to a spendthrift trust  
5 described, defined, or established in section 456.018.

6 456.5-506. Whether or not a trust contains a spendthrift  
7 provision, a creditor or assignee of a beneficiary may reach a  
8 mandatory distribution of income or principal, including a  
9 distribution upon termination of the trust, if the trustee has  
10 not made the distribution to the beneficiary within a reasonable  
11 time after the required distribution date.

12 456.5-507. Trust property is not subject to personal  
13 obligations of the trustee, even if the trustee becomes insolvent  
14 or bankrupt.

15 456.6-601. The capacity required to create, amend, revoke,  
16 or add property to a revocable trust, or to direct the actions of  
17 the trustee of a revocable trust, is the same as that required to  
18 make a will.

19 456.6-602. 1. Unless the terms of a trust expressly  
20 provide that the trust is irrevocable, the settlor may revoke or  
21 amend the trust. This subsection does not apply to a trust  
22 created under an instrument executed before January 1, 2005.

23 2. If a revocable trust is created or funded by more than  
24 one settlor:

25 (1) to the extent the trust consists of community property,

1 the trust may be revoked by either spouse acting alone but may be  
2 amended only by joint action of both spouses; and

3 (2) to the extent the trust consists of property other than  
4 community property, each settlor may revoke or amend the trust  
5 with regard to the portion of the trust property attributable to  
6 that settlor's contribution.

7 3. The settlor may revoke or amend a revocable trust:

8 (1) if the terms of the trust provide a method of amendment  
9 or revocation, by substantially complying with any method  
10 provided in the terms of the trust; or

11 (2) if the terms of the trust do not provide a method, by  
12 any other method manifesting clear and convincing evidence of the  
13 settlor's intent, including the terms of a later duly probated  
14 will or codicil that identify the trust being revoked or the  
15 trust terms being amended.

16 4. Upon revocation of a revocable trust, the trustee shall  
17 deliver the trust property as the settlor directs.

18 5. A settlor's powers with respect to revocation,  
19 amendment, or distribution of trust property may be exercised by  
20 an agent under a power of attorney only to the extent expressly  
21 authorized by the terms of the trust or the power.

22 6. A conservator of the settlor or, if no conservator has  
23 been appointed, a conservator ad litem of the settlor may  
24 exercise a settlor's powers with respect to revocation,  
25 amendment, or distribution of trust property only with the

1 approval of the court supervising the conservator or the  
2 conservator ad litem.

3 7. A trustee who does not know that a trust has been  
4 revoked or amended is not liable to the settlor or settlor's  
5 successors in interest for distributions made and other actions  
6 taken on the assumption that the trust had not been amended or  
7 revoked.

8 456.6-603. 1. While a trust is revocable and the settlor  
9 has capacity to revoke the trust, rights of the beneficiaries are  
10 subject to the control of, and the duties of the trustee are owed  
11 exclusively to, the settlor.

12 2. A settlor is presumed to have capacity for the purposes  
13 of subsection 1 of this section until either the settlor is  
14 adjudicated totally incapacitated or disabled or the trustee has  
15 received an affidavit of incapacity.

16 3. If a revocable trust has more than one settlor, the  
17 duties of the trustee are owed to all of the settlors having  
18 capacity to revoke the trust.

19 4. During the period the power may be exercised, the holder  
20 of a power of withdrawal has the rights of a settlor of a  
21 revocable trust under this section to the extent of the property  
22 subject to the power.

23 5. In this section, an "affidavit of incapacity" means a  
24 written certificate furnished by at least one licensed medical  
25 doctor that states that the settlor lacks capacity to revoke the



1 trust.

2 456.6-604. 1. A person may commence a judicial proceeding  
3 to contest the validity of a trust that was revocable at the  
4 settlor's death within the earliest of:

5 (1) two years after the settlor's death;

6 (2) six months after the trustee sent the person a copy of  
7 the trust instrument and a notice informing the person of the  
8 trust's existence, of the trustee's name and address, and of the  
9 time allowed for commencing a proceeding; or

10 (3) in the case of a trust that was revocable at the  
11 settlor's death that is entitled to a distribution under the  
12 settlor's will, on the date that any contest of that will is  
13 barred under the provisions of section 473.083, RSMo, provided  
14 that a copy of the trust instrument was filed with the probate  
15 division within ninety days of the first publication of notice of  
16 granting of letters on the estate of the decedent under section  
17 473.033, RSMo.

18 2. For purposes of subdivision (2) of subsection 1 of this  
19 section, the trustee may provide the documentation and  
20 information set forth in that subsection to:

21 (1) all persons who would be entitled to notice of granting  
22 of letters on the estate of the decedent under section 473.033,  
23 RSMo; and

24 (2) all persons whose interests are, in the opinion of the  
25 trustee, adversely affected by the terms of the trust.

1       3. Upon the death of the settlor of a trust that was  
2 revocable at the settlor's death, the trustee may proceed to  
3 distribute the trust property in accordance with the terms of the  
4 trust. The trustee is not subject to liability for doing so  
5 unless:

6       (1) the trustee knows of a pending judicial proceeding  
7 contesting the validity of the trust; or

8       (2) a potential contestant has notified the trustee of a  
9 possible judicial proceeding to contest the trust and a judicial  
10 proceeding is commenced within sixty days after the contestant  
11 sent the notification.

12       4. A beneficiary of a trust that is determined to have been  
13 invalid is liable to return any distribution received.

14       456.7-701. 1. Except as otherwise provided in subsection 3  
15 of this section, a person designated as trustee accepts the  
16 trusteeship:

17       (1) by substantially complying with a method of acceptance  
18 provided in the terms of the trust; or

19       (2) if the terms of the trust do not provide a method or  
20 the method provided in the terms is not expressly made exclusive,  
21 by accepting delivery of the trust property, exercising powers or  
22 performing duties as trustee, or otherwise indicating acceptance  
23 of the trusteeship.

24       2. A person designated as trustee who has not yet accepted  
25 the trusteeship may decline the trusteeship. A designated

1 trustee who does not accept the trusteeship within a reasonable  
2 time after knowing of the designation is deemed to have declined  
3 the trusteeship.

4 3. A person designated as trustee, without accepting the  
5 trusteeship, may:

6 (1) act to preserve the trust property if, within a  
7 reasonable time after acting, the person sends a declination of  
8 the trusteeship to the settlor or, if the settlor is dead or  
9 lacks capacity, to a qualified beneficiary; and

10 (2) inspect or investigate trust property to determine  
11 potential liability under environmental or other law or for any  
12 other purpose.

13 456.7-702. 1. A trustee shall give bond to secure  
14 performance of the trustee's duties only if the court finds that  
15 a bond is needed to protect the interests of the beneficiaries or  
16 is required by the terms of the trust and the court has not  
17 dispensed with the requirement.

18 2. The court may specify the amount of a bond, its  
19 liabilities, and whether sureties are necessary. The court may  
20 modify or terminate a bond at any time.

21 456.7-703. 1. Cotrustees shall act by majority decision.

22 2. If a vacancy occurs in a cotrusteeship, the remaining  
23 cotrustees may act for the trust.

24 3. A cotrustee must participate in the performance of a  
25 trustee's function unless the cotrustee is unavailable to perform

1 the function because of absence, illness, disqualification under  
2 other law, or other temporary incapacity or the cotrustee has  
3 properly delegated the performance of the function to another  
4 trustee.

5 4. If a cotrustee is unavailable to perform duties because  
6 of absence, illness, disqualification under other law, or other  
7 temporary incapacity, and prompt action is necessary to achieve  
8 the purposes of the trust or to avoid injury to the trust  
9 property, the remaining cotrustee or a majority of the remaining  
10 cotrustees may act for the trust.

11 5. A trustee may not delegate to a cotrustee the  
12 performance of a function the settlor reasonably expected the  
13 trustees to perform jointly. Unless a delegation was  
14 irrevocable, a trustee may revoke a delegation previously made.

15 6. Except as otherwise provided in subsection 7 of this  
16 section, a trustee who does not join in an action of another  
17 trustee is not liable for the action.

18 7. Each trustee shall exercise reasonable care to:

19 (1) prevent a cotrustee from committing a serious breach of  
20 trust; and

21 (2) compel a cotrustee to redress a serious breach of  
22 trust.

23 8. A dissenting trustee who joins in an action at the  
24 direction of the majority of the trustees and who notified any  
25 cotrustee of the dissent at or before the time of the action is

1 not liable for the action unless the action is a serious breach  
2 of trust.

3 456.7-704. 1. A vacancy in a trusteeship occurs if:

4 (1) a person designated as trustee declines the  
5 trusteeship;

6 (2) a person designated as trustee cannot be identified or  
7 does not exist;

8 (3) a trustee resigns;

9 (4) a trustee is disqualified or removed;

10 (5) a trustee dies; or

11 (6) a guardian or conservator is appointed for an  
12 individual serving as trustee.

13 2. If one or more cotrustees remain in office, a vacancy in  
14 a trusteeship need not be filled. A vacancy in a trusteeship  
15 must be filled if the trust has no remaining trustee.

16 3. A vacancy in a trusteeship required to be filled must be  
17 filled in the following order of priority:

18 (1) by a person designated in or pursuant to the terms of  
19 the trust to act as successor trustee;

20 (2) by a person appointed by a majority in number of the  
21 qualified beneficiaries; or

22 (3) by a person appointed by the court.

23 4. Whether or not a vacancy in a trusteeship exists or is  
24 required to be filled, the court may appoint an additional  
25 trustee or special fiduciary whenever the court considers the

1 appointment necessary for the administration of the trust.

2 456.7-705. 1. A trustee may resign:

3 (1) upon at least 30 days' notice to the qualified  
4 beneficiaries, the settlor, if living, and all cotrustees; or

5 (2) with the approval of the court.

6 2. In approving a resignation, the court may issue orders  
7 and impose conditions reasonably necessary for the protection of  
8 the trust property.

9 3. Any liability of a resigning trustee or of any sureties  
10 on the trustee's bond for acts or omissions of the trustee is not  
11 discharged or affected by the trustee's resignation.

12 456.7-706. 1. The settlor, a cotrustee, or a qualified  
13 beneficiary may request the court to remove a trustee, or a  
14 trustee may be removed by the court on its own initiative.

15 2. The court may remove a trustee if:

16 (1) the trustee has committed a serious breach of trust;

17 (2) lack of cooperation among cotrustees substantially  
18 impairs the administration of the trust;

19 (3) because of unfitness, unwillingness, or persistent  
20 failure of the trustee to administer the trust effectively, the  
21 court determines that removal of the trustee best serves the  
22 interests of the beneficiaries; or

23 (4) the trustee has substantially and materially reduced  
24 the level of services provided to that trust and has failed to  
25 reinstate a substantially equivalent level of services within

1 ninety days after receipt of notice by the settlor, a cotrustee,  
2 or a qualified beneficiary or removal is requested by all of the  
3 qualified beneficiaries and in either such case the party seeking  
4 removal establishes to the court that:

5 (a) removal of the trustee best serves the interests of all  
6 of the beneficiaries;

7 (b) removal of the trustee is not inconsistent with a  
8 material purpose of the trust; and

9 (c) a suitable cotrustee or successor trustee is available  
10 and willing to serve.

11 3. In an action to remove a trustee under subdivision (4)  
12 of subsection 2 of this section, the following apply:

13 (1) In the event that a corporation is the trustee being  
14 removed, a suitable replacement cotrustee or successor trustee  
15 shall be another corporation qualified to conduct trust business  
16 in this state.

17 (2) In the event that a successor trustee is not appointed  
18 under the provisions of section 456.7-704 or the court finds that  
19 all potential successor trustees are not suitable, then the court  
20 may appoint such trustee or trustees as the court finds suitable  
21 under the circumstances.

22 (3) With respect to a trust created under an instrument  
23 executed before January 1, 2005, the provisions of subdivision  
24 (4) of subsection 2 of this section shall not apply if the  
25 instrument contains any procedures concerning removal of any

1 trustee.

2 4. Pending a final decision on a request to remove a  
3 trustee, or in lieu of or in addition to removing a trustee, the  
4 court may order such appropriate relief under subsection 2 of  
5 section 456.10-1001 as may be necessary to protect the trust  
6 property or the interests of the beneficiaries.

7 456.7-707. 1. Unless a cotrustee remains in office or the  
8 court otherwise orders, and until the trust property is delivered  
9 to a successor trustee or other person entitled to it, a trustee  
10 who has resigned or been removed has the duties of a trustee and  
11 the powers necessary to protect the trust property.

12 2. A trustee who has resigned or been removed shall proceed  
13 expeditiously to deliver the trust property within the trustee's  
14 possession to the cotrustee, successor trustee, or other person  
15 entitled to it.

16 456.7-708. 1. If the terms of a trust do not specify the  
17 trustee's compensation, a trustee is entitled to compensation  
18 that is reasonable under the circumstances.

19 2. If the terms of a trust specify the trustee's  
20 compensation, the trustee is entitled to be compensated as  
21 specified, but the court may allow more or less compensation if:

22 (1) the duties of the trustee are substantially different  
23 from those contemplated when the trust was created; or

24 (2) the compensation specified by the terms of the trust  
25 would be unreasonably low or high.



1        3. For purposes of this section, reasonable compensation  
2        may include fees that take into account the administration of  
3        both income and principal whether or not the will or trust  
4        instrument contains provisions relating to compensation of the  
5        trustee.

6        456.7-709. 1. A trustee is entitled to be reimbursed out  
7        of the trust property, with interest as appropriate, for:

8        (1) expenses that were properly incurred in the  
9        administration of the trust; and

10       (2) to the extent necessary to prevent unjust enrichment of  
11       the trust, expenses that were not properly incurred in the  
12       administration of the trust.

13       2. An advance by the trustee of money for the protection of  
14       the trust gives rise to a lien against trust property to secure  
15       reimbursement with reasonable interest.

16       456.8-801. Upon acceptance of a trusteeship, the trustee  
17       shall administer the trust in good faith, in accordance with its  
18       terms and purposes and the interests of the beneficiaries, and in  
19       accordance with sections 456.1-101 to 456.11-1106.

20       456.8-802. 1. A trustee shall administer the trust solely  
21       in the interests of the beneficiaries.

22       2. Subject to the rights of persons dealing with or  
23       assisting the trustee as provided in section 456.10-1012, a sale,  
24       encumbrance, or other transaction involving the investment or  
25       management of trust property entered into by the trustee for the

1 trustee's own personal account or which is otherwise affected by  
2 a conflict between the trustee's fiduciary and personal interests  
3 is voidable by a beneficiary affected by the transaction unless:

4 (1) the transaction was authorized by the terms of the  
5 trust;

6 (2) the transaction was approved by the court;

7 (3) the beneficiary did not commence a judicial proceeding  
8 within the time allowed by section 456.10-1005;

9 (4) the beneficiary consented to the trustee's conduct,  
10 ratified the transaction, or released the trustee in compliance  
11 with section 456.10-1009; or

12 (5) the transaction involves a contract entered into or  
13 claim acquired by the trustee before the person became or  
14 contemplated becoming trustee.

15 3. A sale, encumbrance, or other transaction involving the  
16 investment or management of trust property is presumed to be  
17 affected by a conflict between personal and fiduciary interests  
18 if it is entered into by the trustee with:

19 (1) the trustee's spouse;

20 (2) the trustee's descendants, siblings, parents, or their  
21 spouses;

22 (3) an agent or attorney of the trustee; or

23 (4) a corporation or other person or enterprise in which  
24 the trustee, or a person that owns a significant interest in the  
25 trustee, has an interest that might affect the trustee's best

1 judgment.

2 4. A transaction between a trustee and a beneficiary that  
3 does not concern trust property but that occurs during the  
4 existence of the trust or while the trustee retains significant  
5 influence over the beneficiary and from which the trustee obtains  
6 an advantage is voidable by the beneficiary unless the trustee  
7 establishes that the transaction was fair to the beneficiary.

8 5. A transaction not concerning trust property in which the  
9 trustee engages in the trustee's individual capacity involves a  
10 conflict between personal and fiduciary interests if the  
11 transaction concerns an opportunity properly belonging to the  
12 trust.

13 6. The following transactions are not presumed to be  
14 affected by a conflict between the trustee's personal and  
15 fiduciary interest provided that any investment made pursuant to  
16 the transaction complies with the Missouri Prudent Investor Act.

17 (1) An investment by a trustee in securities of an  
18 investment company or investment trust to which the trustee, or  
19 its affiliate, provides services in a capacity other than as  
20 trustee.

21 (2) the placing of securities transactions by a trustee  
22 through a securities broker that is a part of the same company as  
23 the trustee, is owned by the trustee, or is affiliated with the  
24 trustee.

25 (3) In addition to the trustee's fees charged to the trust,

1 the trustee, its affiliate, or associated entity may be  
2 compensated for any transaction or provision of services  
3 described in this subsection 6 or in subdivisions (4), (5), or  
4 (6) of subsection 8 of this section; provided, however, that with  
5 respect to any investment in securities of an investment company  
6 or investment trust to which the trustee or its affiliate  
7 provides investment advisory or investment management services or  
8 any services described in subdivision (5) of subsection 8 of this  
9 section, the trustee shall at least annually notify the persons  
10 entitled under section 456.8-813 to receive a copy of the  
11 trustee's annual report of the rate or method by which the  
12 compensation was determined.

13 7. In voting shares of stock or in exercising powers of  
14 control over similar interests in other forms of enterprise, the  
15 trustee shall act in the best interests of the beneficiaries. If  
16 the trust is the sole owner of a corporation or other form of  
17 enterprise, the trustee shall elect or appoint directors or other  
18 managers who will manage the corporation or enterprise in the  
19 best interests of the beneficiaries.

20 8. The following transactions, if fair to the  
21 beneficiaries, are not presumed to be affected by a conflict  
22 between personal and fiduciary interests and are not precluded by  
23 this section:

24 (1) an agreement between a trustee and a beneficiary  
25 relating to the appointment or compensation of the trustee;

1       (2) payment of reasonable compensation to the trustee;

2       (3) a transaction between a trust and another trust,  
3       decedent's estate, or conservatorship of which the trustee is a  
4       fiduciary or in which a beneficiary has an interest;

5       (4) a deposit of trust money in a financial institution  
6       operated by the trustee or an affiliate;

7       (5) a delegation and any transaction made pursuant to the  
8       delegation from a trustee to an agent that is affiliated or  
9       associated with the trustee, provided that notice of any  
10       compensation paid pursuant to the delegation is given as provided  
11       in subdivision (3) of subsection 6 of this section; or

12       (6) any loan from the trustee or its affiliate.

13       9. The court may appoint a special fiduciary to make a  
14       decision with respect to any proposed transaction that might  
15       violate this section if entered into by the trustee.

16       456.8-803. If a trust has two or more beneficiaries, the  
17       trustee shall act impartially in investing, managing, and  
18       distributing the trust property, giving due regard to the  
19       beneficiaries' respective interests.

20       456.8-804. A trustee shall administer the trust as a  
21       prudent person would, by considering the purposes, terms,  
22       distributional requirements, and other circumstances of the  
23       trust. In satisfying this standard, the trustee shall exercise  
24       reasonable care, skill, and caution.

25       456.8-805. In administering a trust, the trustee may incur

1 only costs that are reasonable in relation to the trust property,  
2 the purposes of the trust, and the skills of the trustee.

3 456.8-806. A trustee who has special skills or expertise,  
4 or is named trustee in reliance upon the trustee's representation  
5 that the trustee has special skills or expertise, shall use those  
6 special skills or expertise.

7 456.8-807. 1. A trustee may delegate to an agent duties  
8 and powers that a prudent trustee of comparable skills could  
9 properly delegate under the circumstances. The trustee shall  
10 exercise reasonable care, skill, and caution in:

11 (1) selecting an agent;

12 (2) establishing the scope and terms of the delegation,  
13 consistent with the purposes and terms of the trust; and

14 (3) periodically reviewing the agent's actions in order to  
15 monitor the agent's performance and compliance with the terms of  
16 the delegation.

17 2. In performing a delegated function, an agent owes a duty  
18 to the trust to exercise reasonable care to comply with the terms  
19 of the delegation.

20 3. A trustee who complies with subsection 1 of this section  
21 is not liable to the beneficiaries or to the trust for an action  
22 of the agent to whom the function was delegated.

23 4. By accepting a delegation of powers or duties from the  
24 trustee of a trust that is subject to the law of this State, an  
25 agent submits to the jurisdiction of the courts of this State.

1       456.8-808. 1. While a trust is revocable, the trustee may  
2 follow a direction of the settlor that is contrary to the terms  
3 of the trust.

4       2. If the terms of a trust confer upon a person other than  
5 the settlor of a revocable trust power to direct certain actions  
6 of the trustee, the trustee shall act in accordance with an  
7 exercise of the power unless the attempted exercise is contrary  
8 to the terms of the trust or the trustee knows the attempted  
9 exercise would constitute a serious breach of a fiduciary duty  
10 that the person holding the power owes to the beneficiaries of  
11 the trust.

12       3. The terms of a trust may confer upon a trustee or other  
13 person a power to direct the modification or termination of the  
14 trust.

15       4. A person, other than a beneficiary, who holds a power to  
16 direct is presumptively a fiduciary who, as such, is required to  
17 act in good faith with regard to the purposes of the trust and  
18 the interests of the beneficiaries. The holder of a power to  
19 direct is liable for any loss that results from breach of a  
20 fiduciary duty.

21       456.8-809. A trustee shall take reasonable steps to take  
22 control of and protect the trust property, except that this duty  
23 does not apply to, and the trustee is not responsible for, items  
24 of tangible personal property that are property of a trust  
25 revocable by the settlor and that are not in the possession or

1 control of the trustee.

2 456.8-810. 1. A trustee shall keep adequate records of the  
3 administration of the trust.

4 2. A trustee shall keep trust property separate from the  
5 trustee's own property.

6 3. Except as otherwise provided in subsection 4 of this  
7 section, a trustee shall cause the trust property to be  
8 designated so that the interest of the trust, to the extent  
9 feasible, appears in records maintained by a party other than a  
10 trustee or beneficiary.

11 4. If the trustee maintains records clearly indicating the  
12 respective interests, a trustee may invest as a whole the  
13 property of two or more separate trusts.

14 456.8-811. A trustee shall take reasonable steps to enforce  
15 claims of the trust and to defend claims against the trust.

16 456.8-812. A trustee shall take reasonable steps to compel  
17 a former trustee or other person to deliver trust property to the  
18 trustee, and to redress a breach of trust known to the trustee to  
19 have been committed by a former trustee.

20 456.8-813. 1. A trustee shall keep the qualified  
21 beneficiaries of the trust reasonably informed about the  
22 administration of the trust and of the material facts necessary  
23 for them to protect their interests. Unless unreasonable under  
24 the circumstances, a trustee shall promptly respond to a  
25 beneficiary's request for information related to the



1 administration of the trust.

2 2. A trustee:

3 (1) upon request of a beneficiary, shall promptly furnish  
4 to the beneficiary a copy of the trust instrument;

5 (2) within 60 days after accepting a trusteeship, shall  
6 notify the qualified beneficiaries of the acceptance and of the  
7 trustee's name, address, and telephone number;

8 (3) within sixty days after the date the trustee acquires  
9 knowledge of the creation of an irrevocable trust, or the date  
10 the trustee acquires knowledge that a formerly revocable trust  
11 has become irrevocable, whether by the death of the settlor or  
12 otherwise, shall notify the qualified beneficiaries of the  
13 trust's existence, of the identity of the settlor or settlors, of  
14 the right to request a copy of the trust instrument, and of the  
15 right to a trustee's report as provided in subsection 3 of this  
16 section; and

17 (4) shall notify the qualified beneficiaries in advance of  
18 any change in the method or rate of the trustee's compensation.  
19 Subdivisions (2) and (3) of this subsection do not apply to a  
20 trust that became irrevocable before January 1, 2005.

21 3. A trustee shall send to the permissible distributees of  
22 trust income or principal, and to other beneficiaries who request  
23 it, at least annually and at the termination of the trust, a  
24 report of the trust property, liabilities, receipts, and  
25 disbursements, including the source and amount of the trustee's

1 compensation, a listing of the trust assets and, if feasible,  
2 their respective market values. Upon a vacancy in a trusteeship,  
3 unless a cotrustee remains in office, a report must be sent to  
4 the qualified beneficiaries by the former trustee. A personal  
5 representative, conservator, or guardian may send the qualified  
6 beneficiaries a report on behalf of a deceased or incapacitated  
7 trustee.

8 4. A beneficiary may waive the right to a trustee's report  
9 or other information otherwise required to be furnished under  
10 this section. A beneficiary, with respect to future reports and  
11 other information, may withdraw a waiver previously given.

12 5. A trustee may charge a reasonable fee to a beneficiary  
13 for providing information under this section.

14 6. The request of any beneficiary for information under any  
15 provision of this section shall be with respect to a single trust  
16 that is sufficiently identified to enable the trustee to locate  
17 the records of the trust.

18 7. If the trustee is bound by any confidentiality  
19 restrictions with respect to an asset of a trust, any beneficiary  
20 who is eligible to receive information pursuant to this section  
21 about such asset shall agree to be bound by the confidentiality  
22 restrictions that bind the trustee before receiving such  
23 information from the trustee.

24 456.8-814. 1. Notwithstanding the breadth of discretion  
25 granted to a trustee in the terms of the trust, including the use

1 of such terms as "absolute," "sole," or "uncontrolled," the  
2 trustee shall exercise a discretionary power in good faith and in  
3 accordance with the terms and purposes of the trust and the  
4 interests of the beneficiaries.

5 2. Subject to subsection 4 of this section, and unless the  
6 terms of the trust expressly indicate that a rule in this  
7 subsection does not apply:

8 (1) a person other than a settlor who is a beneficiary and  
9 trustee of a trust that confers on the trustee a power to make  
10 discretionary distributions to or for the trustee's personal  
11 benefit may exercise the power only in accordance with an  
12 ascertainable standard relating to the trustee's individual  
13 health, education, support, or maintenance within the meaning of  
14 section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code;

15 (2) a trustee may not exercise a power to make  
16 discretionary distributions to satisfy a legal obligation of  
17 support that the trustee personally owes another person; and

18 (3) for purposes of this subsection 2 of this section, the  
19 term "trustee" shall include a person who is deemed to have any  
20 power of a trustee, whether because such person has the right to  
21 remove or replace any trustee, because a reciprocal trust or  
22 power doctrine applies, or for any other reason.

23 3. A power whose exercise is limited or prohibited by  
24 subsection 2 may be exercised by a majority of the remaining  
25 trustees whose exercise of the power is not so limited or

1 prohibited. If the power of all trustees is so limited or  
2 prohibited, the court may appoint a special fiduciary with  
3 authority to exercise the power.

4 4. Subsection 2 of this section does not apply to:

5 (1) a power held by the settlor's spouse who is the trustee  
6 of a trust for which a marital deduction, as defined in section  
7 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code was  
8 previously allowed;

9 (2) any trust during any period that the trust may be  
10 revoked or amended by its settlor; or

11 (3) a trust if contributions to the trust qualify for the  
12 annual exclusion under section 2503(c) of the Internal Revenue  
13 Code.

14 456.8-815. 1. A trustee, without authorization by the  
15 court, may exercise:

16 (1) powers conferred by the terms of the trust; and

17 (2) except as limited by the terms of the trust:

18 (a) all powers over the trust property which an unmarried  
19 competent owner has over individually owned property;

20 (b) any other powers appropriate to achieve the proper  
21 investment, management, and distribution of the trust property;  
22 and

23 (c) any other powers conferred by sections 456.1-101 to  
24 456.11-1106.

25 2. The exercise of a power is subject to the fiduciary

1 duties prescribed by section 456.8-801 to 456.8-814.

2 456.8-816. Without limiting the authority conferred by  
3 section 456.8-815, a trustee may:

4 (1) collect trust property and accept or reject additions  
5 to the trust property from a settlor or any other person;

6 (2) acquire or sell property in divided or undivided  
7 interests, for cash or on credit, at public or private sale;

8 (3) exchange, partition, or otherwise change the character  
9 of trust property;

10 (4) deposit trust money in an account in a financial  
11 institution;

12 (5) borrow money, with or without security, and mortgage or  
13 pledge trust property for a period within or extending beyond the  
14 duration of the trust;

15 (6) with respect to an interest in a proprietorship,  
16 partnership, limited liability company, business trust,  
17 corporation, or other form of business or enterprise, continue  
18 the business or other enterprise and take any action that may be  
19 taken by shareholders, members, or property owners, including  
20 merging, dissolving, or otherwise changing the form of business  
21 organization or contributing additional capital;

22 (7) with respect to stocks or other securities, exercise  
23 the rights of an absolute owner, including the right to:

24 (a) vote, or give proxies to vote, with or without power of  
25 substitution, or enter into or continue a voting trust agreement;

1       (b) hold a security in the name of a nominee or in other  
2 form without disclosure of the trust so that title may pass by  
3 delivery;

4       (c) pay calls, assessments, and other sums chargeable or  
5 accruing against the securities, and sell or exercise stock  
6 subscription or conversion rights; and

7       (d) deposit the securities with a depository or other  
8 financial institution;

9       (8) with respect to an interest in real property,  
10 construct, or make ordinary or extraordinary repairs to,  
11 alterations to, or improvements in, buildings or other  
12 structures, demolish improvements, raze existing or erect new  
13 party walls or buildings, subdivide or develop land, dedicate  
14 land to public use or grant public or private easements, and make  
15 or vacate plats and adjust boundaries;

16       (9) enter into a lease for any purpose as lessor or lessee,  
17 including a lease or other arrangement for exploration and  
18 removal of natural resources, with or without the option to  
19 purchase or renew, for a period within or extending beyond the  
20 duration of the trust;

21       (10) grant an option involving a sale, lease, or other  
22 disposition of trust property or acquire an option for the  
23 acquisition of property, including an option exercisable beyond  
24 the duration of the trust, and exercise an option so acquired;

25       (11) insure the property of the trust against damage or loss

1 and insure the trustee, the trustee's agents, and beneficiaries  
2 against liability arising from the administration of the trust;

3 (12) abandon or decline to administer property of no value  
4 or of insufficient value to justify its collection or continued  
5 administration;

6 (13) with respect to possible liability for violation of  
7 environmental law:

8 (a) inspect or investigate property the trustee holds or  
9 has been asked to hold, or property owned or operated by an  
10 organization in which the trustee holds or has been asked to hold  
11 an interest, for the purpose of determining the application of  
12 environmental law with respect to the property;

13 (b) take action to prevent, abate, or otherwise remedy any  
14 actual or potential violation of any environmental law affecting  
15 property held directly or indirectly by the trustee, whether  
16 taken before or after the assertion of a claim or the initiation  
17 of governmental enforcement;

18 (c) decline to accept property into trust or disclaim any  
19 power with respect to property that is or may be burdened with  
20 liability for violation of environmental law;

21 (d) compromise claims against the trust which may be  
22 asserted for an alleged violation of environmental law; and

23 (e) pay the expense of any inspection, review, abatement,  
24 or remedial action to comply with environmental law;

25 (14) pay or contest any claim, settle a claim by or against

1 the trust, and release, in whole or in part, a claim belonging to  
2 the trust;

3 (15) pay taxes, assessments, compensation of the trustee  
4 and of employees and agents of the trust, and other expenses  
5 incurred in the administration of the trust;

6 (16) exercise elections with respect to federal, state, and  
7 local taxes;

8 (17) select a mode of payment under any employee benefit or  
9 retirement plan, annuity, or life insurance payable to the  
10 trustee, exercise rights thereunder, including exercise of the  
11 right to indemnification for expenses and against liabilities,  
12 and take appropriate action to collect the proceeds;

13 (18) make loans out of trust property, including loans to a  
14 beneficiary on terms and conditions the trustee considers to be  
15 fair and reasonable under the circumstances, and the trustee has  
16 a lien on future distributions for repayment of those loans;

17 (19) pledge trust property to guarantee or secure loans  
18 made by others to a beneficiary;

19 (20) appoint a trustee to act in another jurisdiction with  
20 respect to trust property located in the other jurisdiction,  
21 confer upon the appointed trustee all of the powers and duties of  
22 the appointing trustee, require that the appointed trustee  
23 furnish security, and remove any trustee so appointed;

24 (21) pay an amount distributable to a beneficiary who is  
25 under a legal disability or who the trustee reasonably believes



1 is incapacitated, by paying it directly to the beneficiary or  
2 applying it for the beneficiary's benefit, or by:

3 (a) paying it to the beneficiary's conservator or, if the  
4 beneficiary does not have a conservator, the beneficiary's  
5 guardian;

6 (b) paying it to the beneficiary's custodian under the  
7 Missouri Transfers to Minors Law under sections 404.005 to  
8 404.094, RSMo, or a personal custodian under sections 404.400 to  
9 404.650, RSMo, and, for that purpose, creating a custodianship or  
10 custodial trust;

11 (c) if the trustee does not know of a conservator,  
12 guardian, custodian, or custodial trustee, paying it to an adult  
13 relative or other person having legal or physical care or custody  
14 of the beneficiary, to be expended on the beneficiary's behalf;  
15 or

16 (d) managing it as a separate fund on the beneficiary's  
17 behalf, subject to the beneficiary's continuing right to withdraw  
18 the distribution;

19 (22) on distribution of trust property or the division or  
20 termination of a trust, make distributions in divided or  
21 undivided interests, allocate particular assets in proportionate  
22 or disproportionate shares, value the trust property for those  
23 purposes, and adjust for resulting differences in valuation;

24 (23) resolve a dispute concerning the interpretation of the  
25 trust or its administration by mediation, arbitration, or other

1 procedure for alternative dispute resolution;

2 (24) prosecute or defend an action, claim, or judicial  
3 proceeding in any jurisdiction to protect trust property and the  
4 trustee in the performance of the trustee's duties;

5 (25) sign and deliver contracts and other instruments that  
6 are useful to achieve or facilitate the exercise of the trustee's  
7 powers.

8 (26) on termination of the trust, exercise the powers  
9 appropriate to wind up the administration of the trust and  
10 distribute the trust property to the persons entitled to it; and

11 (27) To invest and reinvest trust assets in accordance with  
12 sections 469.900 to 469.913, RSMo; including investing and  
13 reinvesting in securities or obligations of any state or its  
14 political subdivisions, including securities or obligations that  
15 are underwritten by the trustee or an affiliate of the trustee or  
16 a syndicate in which the trustee or an affiliate of the trustee  
17 is a member which meet the standards established by the division  
18 of finance pursuant to subsection 5 of section 362.550, RSMo.

19 456.8-817. 1. Upon termination or partial termination of a  
20 trust, the trustee may send to the beneficiaries a proposal for  
21 distribution. The right of any beneficiary to object to the  
22 proposed distribution terminates if the beneficiary does not  
23 notify the trustee of an objection within thirty days after the  
24 proposal was sent but only if the proposal informed the  
25 beneficiary of the right to object and of the time allowed for

1 objection.

2 2. Upon the occurrence of an event terminating or partially  
3 terminating a trust, the trustee shall proceed expeditiously to  
4 distribute the trust property to the persons entitled to it,  
5 subject to the right of the trustee to retain a reasonable  
6 reserve for the payment of debts, expenses, and taxes.

7 3. A release by a beneficiary of a trustee from liability  
8 for breach of trust is invalid to the extent:

9 (1) it was induced by improper conduct of the trustee; or

10 (2) the beneficiary, at the time of the release, did not  
11 know of the beneficiary's rights or of the material facts  
12 relating to the breach.

13 456.10-1001. 1. A violation by a trustee of a duty the  
14 trustee owes to a beneficiary is a breach of trust.

15 2. To remedy a breach of trust that has occurred or may  
16 occur, the court may:

17 (1) compel the trustee to perform the trustee's duties;

18 (2) enjoin the trustee from committing a breach of trust;

19 (3) compel the trustee to redress a breach of trust by  
20 paying money, restoring property, or other means;

21 (4) order a trustee to account;

22 (5) appoint a special fiduciary to take possession of the  
23 trust property and administer the trust;

24 (6) suspend the trustee;

25 (7) remove the trustee as provided in section 456.7-706;

1       (8) reduce or deny compensation to the trustee;

2       (9) subject to section 456.10-1012, void an act of the  
3 trustee, impose a lien or a constructive trust on trust property,  
4 or trace trust property wrongfully disposed of and recover the  
5 property or its proceeds; or

6       (10) order any other appropriate relief.

7       456.10-1002. 1. A trustee who commits a breach of trust is  
8 liable to the beneficiaries affected for the greater of:

9       (1) the amount required to restore the value of the trust  
10 property and trust distributions to what they would have been had  
11 the breach not occurred; or

12       (2) the profit the trustee made by reason of the breach.

13       2. Except as otherwise provided in this subsection, if more  
14 than one trustee is liable to the beneficiaries for a breach of  
15 trust, a trustee is entitled to contribution from the other  
16 trustee or trustees that are also liable. A trustee is not  
17 entitled to contribution if the trustee was substantially more at  
18 fault than another trustee or if the trustee committed the breach  
19 of trust in bad faith or with reckless indifference to the  
20 purposes of the trust or the interests of the beneficiaries. A  
21 trustee who received a benefit from the breach of trust is not  
22 entitled to contribution from another trustee to the extent of  
23 the benefit received.

24       456.10-1003. 1. A trustee is accountable to an affected  
25 beneficiary for any profit made by the trustee arising from the

1 administration of the trust, even absent a breach of trust.

2 2. Absent a breach of trust, a trustee is not liable to a  
3 beneficiary for a loss or depreciation in the value of trust  
4 property or for not having made a profit.

5 456.10-1004. In a judicial proceeding involving the  
6 administration of a trust, the court, as justice and equity may  
7 require, may award costs and expenses, including reasonable  
8 attorney's fees, to any party, to be paid by another party or  
9 from the trust that is the subject of the controversy.

10 456.10-1005. 1. A beneficiary may not commence a  
11 proceeding against a trustee for breach of trust more than one  
12 year after the last to occur of the date the beneficiary or a  
13 representative of the beneficiary was sent a report that  
14 adequately disclosed the existence of a potential claim for  
15 breach of trust and the date the trustee informed the beneficiary  
16 of the time allowed for commencing a proceeding with respect to  
17 any potential claim adequately disclosed on the report.

18 2. A report adequately discloses the existence of a  
19 potential claim for breach of trust if it provides sufficient  
20 information so that the beneficiary or representative knows of  
21 the potential claim or should have inquired into its existence.

22 3. If subsection 1 of this section does not apply, a  
23 judicial proceeding by a beneficiary against a trustee for breach  
24 of trust must be commenced within five years after the first to  
25 occur of:

1       (1) the removal, resignation, or death of the trustee;  
2       (2) the termination of the beneficiary's interest in the  
3 trust; or  
4       (3) the termination of the trust.

5       456.10-1006. A trustee who acts in reasonable reliance on  
6 the terms of the trust as expressed in the trust instrument is  
7 not liable to a beneficiary for a breach of trust to the extent  
8 the breach resulted from the reliance.

9       456.10-1007. If the happening of an event, including  
10 marriage, divorce, performance of educational requirements, or  
11 death, affects the administration or distribution of a trust, a  
12 trustee who has exercised reasonable care to ascertain the  
13 happening of the event is not liable for a loss resulting from  
14 the trustee's lack of knowledge.

15       456.10-1008. 1. A term of a trust relieving a trustee of  
16 liability for breach of trust is unenforceable to the extent that  
17 it:

18       (1) relieves the trustee of liability for breach of trust  
19 committed in bad faith or with reckless indifference to the  
20 purposes of the trust or the interests of the beneficiaries; or

21       (2) was inserted as the result of an abuse by the trustee  
22 of a fiduciary or confidential relationship to the settlor.

23       2. Unless the settlor was represented by an attorney not  
24 employed by the trustee with respect to the trust containing the  
25 exculpatory term, an exculpatory term drafted or caused to be

1 drafted by the trustee is invalid as an abuse of a fiduciary or  
2 confidential relationship unless the trustee proves that the  
3 exculpatory term is fair under the circumstances and that its  
4 existence and contents were adequately communicated to the  
5 settlor.

6 456.10-1009. A trustee is not liable to a beneficiary for  
7 breach of trust if the beneficiary, while having capacity,  
8 consented to the conduct constituting the breach, released the  
9 trustee from liability for the breach, or ratified the  
10 transaction constituting the breach, unless:

11 (1) the consent, release, or ratification of the  
12 beneficiary was induced by improper conduct of the trustee; or

13 (2) at the time of the consent, release, or ratification,  
14 the beneficiary did not know of the beneficiary's rights or of  
15 the material facts relating to the breach.

16 456.10-1010. 1. Except as otherwise provided in the  
17 contract, a trustee is not personally liable on a contract  
18 properly entered into in the trustee's fiduciary capacity in the  
19 course of administering the trust if the trustee in the contract  
20 disclosed the fiduciary capacity.

21 2. A trustee is personally liable for torts committed in  
22 the course of administering a trust, or for obligations arising  
23 from ownership or control of trust property, including liability  
24 for violation of environmental law, only if the trustee is  
25 personally at fault.

1       3. A claim based on a contract entered into by a trustee in  
2       the trustee's fiduciary capacity, on an obligation arising from  
3       ownership or control of trust property, or on a tort committed in  
4       the course of administering a trust, may be asserted in a  
5       judicial proceeding against the trustee in the trustee's  
6       fiduciary capacity, whether or not the trustee is personally  
7       liable for the claim.

8       456.10-1011. 1. Except as otherwise provided in subsection  
9       3 of this section or unless personal liability is imposed in the  
10       contract, a trustee who holds an interest as a general partner in  
11       a general or limited partnership is not personally liable on a  
12       contract entered into by the partnership after the trust's  
13       acquisition of the interest if the fiduciary capacity was  
14       disclosed in the contract or in a statement previously filed with  
15       the Secretary of State of this State.

16       2. Except as otherwise provided in subsection 3 of this  
17       section, a trustee who holds an interest as a general partner is  
18       not personally liable for torts committed by the partnership or  
19       for obligations arising from ownership or control of the interest  
20       unless the trustee is personally at fault.

21       3. The immunity provided by this section does not apply if  
22       an interest in the partnership is held by the trustee in a  
23       capacity other than that of trustee or is held by the trustee's  
24       spouse or one or more of the trustee's descendants, siblings, or  
25       parents, or the spouse of any of them.



1       4. If the trustee of a revocable trust holds an interest as  
2 a general partner, the settlor is personally liable for contracts  
3 and other obligations of the partnership as if the settlor were a  
4 general partner.

5       456.10-1012. 1. A person other than a beneficiary who in  
6 good faith assists a trustee, or who in good faith and for value  
7 deals with a trustee, without knowledge that the trustee is  
8 exceeding or improperly exercising the trustee's powers is  
9 protected from liability as if the trustee properly exercised the  
10 power.

11       2. A person other than a beneficiary who in good faith  
12 deals with a trustee is not required to inquire into the extent  
13 of the trustee's powers or the propriety of their exercise.

14       3. A person who in good faith delivers assets to a trustee  
15 need not ensure their proper application.

16       4. A person other than a beneficiary who in good faith  
17 assists a former trustee, or who in good faith and for value  
18 deals with a former trustee, without knowledge that the  
19 trusteeship has terminated is protected from liability as if the  
20 former trustee were still a trustee.

21       5. Comparable protective provisions of other laws relating  
22 to commercial transactions or transfer of securities by  
23 fiduciaries prevail over the protection provided by this section.

24       456.10-1013. 1. Instead of furnishing a copy of the trust  
25 instrument to a person other than a beneficiary, the trustee may

1 furnish to the person a certification of trust containing the  
2 following information:

3 (1) that the trust exists and the date the trust instrument  
4 was executed;

5 (2) the identity of the settlor;

6 (3) the identity and address of the currently acting  
7 trustee;

8 (4) the powers of the trustee;

9 (5) the revocability or irrevocability of the trust and the  
10 identity of any person holding a power to revoke the trust;

11 (6) the authority of cotrustees to sign or otherwise  
12 authenticate and whether all or less than all are required in  
13 order to exercise powers of the trustee;

14 (7) the trust's taxpayer identification number; and

15 (8) the manner of taking title to trust property.

16 2. A certification of trust must be signed by all the  
17 trustees. A third party may require that the certification of  
18 trust be acknowledged or guaranteed.

19 3. A certification of trust must state that the trust has  
20 not been revoked, modified, or amended in any manner that would  
21 cause the representations contained in the certification of trust  
22 to be incorrect.

23 4. A certification of trust need not contain the  
24 dispositive terms of a trust.

25 5. A recipient of a certification of trust may require the

1 trustee to furnish copies of those excerpts from the original  
2 trust instrument and later amendments which designate the trustee  
3 and confer upon the trustee the power to act in the pending  
4 transaction.

5 6. A person who acts in reliance upon a certification of  
6 trust without knowledge that the representations contained  
7 therein are incorrect is not liable to any person for so acting  
8 and may assume without inquiry the existence of the facts  
9 contained in the certification. Knowledge of the terms of the  
10 trust may not be inferred solely from the fact that a copy of all  
11 or part of the trust instrument is held by the person relying  
12 upon the certification.

13 7. A person who in good faith enters into a transaction in  
14 reliance upon a certification of trust may enforce the  
15 transaction against the trust property as if the representations  
16 contained in the certification were correct.

17 8. A person making a demand for the trust instrument in  
18 addition to a certification of trust or excerpts is liable for  
19 damages if the court determines that the person did not act in  
20 good faith in demanding the trust instrument.

21 9. This section does not limit the right of a person to  
22 obtain a copy of the trust instrument in a judicial proceeding  
23 concerning the trust.

24 456.11-1101. In applying and construing this uniform act,  
25 consideration must be given to the need to promote uniformity of

1 the law with respect to its subject matter among states that  
2 enact it.

3 456.11-1102. Sections 456.1-101 to 456.11-1106 modify,  
4 limit, and supersede the federal Electronic Signatures in Global  
5 and National Commerce Act (15 U.S.C. section 7001, et seq.) but  
6 do not modify, limit, or supersede section 101(c) of that Act (15  
7 U.S.C. section 7001(c)) or authorize electronic delivery of any  
8 of the notices described in section 103(b) of that act (15 U.S.C.  
9 section 7003(b)).

10 456.11-1103. If any provision of sections 456.1-101 to  
11 456.11-1106 or its application to any person or circumstances is  
12 held invalid, the invalidity does not affect other provisions or  
13 applications of sections 456.1-101 to 456.11-1106 which can be  
14 given effect without the invalid provision or application, and to  
15 this end the provisions of sections 456.1-101 to 456.11-1106 are  
16 severable.

17 456.11-1104. Sections 456.1-101 to 456.11-1106 take effect  
18 on January 1, 2005.

19 456.11-1106. 1. Except as otherwise provided in sections  
20 456.1-101 to 456.11-1106, on January 1, 2005:

21 (1) Sections 456.1-101 to 456.11-1106 apply to all trusts  
22 created before, on, or after January 1, 2005;

23 (2) Sections 456.1-101 to 456.11-1106 apply to all judicial  
24 proceedings concerning trusts commenced on or after January 1,  
25 2005;

1       (3) Sections 456.1-101 to 456.11-1106 apply to judicial  
2 proceedings concerning trusts commenced before January 1, 2005,  
3 unless the court finds that application of a particular provision  
4 of sections 456.1-101 to 456.11-1106 would substantially  
5 interfere with the effective conduct of the judicial proceedings  
6 or prejudice the rights of the parties, in which case the  
7 particular provision of sections 456.1-101 to 456.11-1106 does  
8 not apply and the superseded law applies;

9       (4) Any rule of construction or presumption provided in  
10 sections 456.1-101 to 456.11-1106 apply to trust instruments  
11 executed before January 1, 2005, unless there is a clear  
12 indication of a contrary intent in the terms of the trust;

13       (5) An act done before January 1, 2005, is not affected by  
14 any provisions contained in sections 456.1-101 to 456.11-1106;  
15 and

16       (6) Section 456.590 shall not apply to trusts created under  
17 an instrument executed on or after January 1, 2005.

18       2. If a right is acquired, extinguished, or barred upon the  
19 expiration of a prescribed period that has commenced to run under  
20 any other statute before January 1, 2005, that statute continues  
21 to apply to the right even if it has been repealed or superseded.

22       [456.015.] 456.001. 1. If an instrument providing for a  
23 pecuniary bequest or transfer to or for the benefit of the spouse  
24 of the testator or transferor requires or permits the  
25 satisfaction of such bequest or transfer wholly or partly by the

1 distribution of property valued at some date or on some basis  
2 other than its fair market value at the time of distribution, and  
3 does not require that such bequest or transfer be satisfied by  
4 the distribution of assets, including cash, having an aggregate  
5 fair market value on the date or dates of distribution amounting  
6 to no less than the amount of such bequest or transfer, then in  
7 such case, the provisions of the instrument notwithstanding, any  
8 property distributed in satisfaction of such bequest or transfer  
9 shall have an aggregate fair market value on the date of  
10 distribution fairly reflecting the distributee's proportionate  
11 share of the appreciation or depreciation in value to the date of  
12 distribution of all property then available for distribution.

13 2. If, in any instrument which provides for a pecuniary  
14 bequest or transfer, the personal representative or trustee is  
15 empowered to satisfy such bequest or transfer by distribution of  
16 property in kind, and the instrument is silent as to the value to  
17 be given to property distributed in kind, any property  
18 distributed in satisfaction of the bequest or transfer shall be  
19 valued at the fair market value thereof on the date of  
20 distribution.

21 3. The phrase "pecuniary bequest or transfer", as used in  
22 this section, means a bequest or transfer either in a stated  
23 amount or in an amount determined by the use of a formula.

24 4. This section shall be effective with respect to wills  
25 and revocable inter vivos trusts executed or created before or

1 after October 13, 1969, by persons who die on or after said date,  
2 and to irrevocable inter vivos trusts which are created on or  
3 after October 13, 1969.

4       [456.020.] 456.003. When the terms of an instrument  
5 creating a trust manifest intention that the trustee shall have  
6 the legal fee simple in land, the full legal ownership of an  
7 estate for years, or the absolute legal ownership of chattels  
8 personal, investment securities or choses in action, an exercise  
9 by the trustee or a successor trustee of an express or implied  
10 power of sale, mortgage, leasing, improvement or conducting any  
11 other transaction incident to the administration of the trust,  
12 shall bind the fee simple, term of years or absolute ownership  
13 notwithstanding the execution of a future interest under the  
14 trust into a legal estate or interest by the operation of the  
15 Statute of Uses, or former section [456.020] 456.003, or a  
16 judicial doctrine imposing such execution on dry or passive  
17 trusts.

18       [456.030.] 456.005. Proceeds of life insurance policies  
19 heretofore made payable to a trustee or trustees named as  
20 beneficiary or hereafter to be named beneficiary under an inter  
21 vivos trust shall be paid directly to the trustee or trustees and  
22 held and disposed of by the trustee or trustees as provided in  
23 the trust agreement or declaration of trust in writing made and  
24 in existence on the date of death of the insured, whether or not  
25 such trust or declaration of trust is amendable or revocable or

1 both, or whether it may have been amended, and notwithstanding  
2 the reservation of any or all rights of ownership under the  
3 insurance policy or annuity contract; subject, however, to a  
4 valid assignment of any part of the proceeds. It is not  
5 necessary to the validity of such trust agreement or declaration  
6 of trust that it be funded or have a corpus other than the right,  
7 which need not be irrevocable, of the trustee or trustees named  
8 therein to receive such proceeds as beneficiary. A policy of  
9 life insurance or annuity contract may designate as beneficiary a  
10 trustee or trustees named or to be named by will if the  
11 designation is made in accordance with the provisions of the  
12 policy or contract whether or not the will is in existence at the  
13 time of the designation.

14 [456.040.] 456.007. 1. Whenever any person, firm or  
15 corporation, engaged in the leasing of personal property, shall  
16 require a deposit or advance payment to be made by the lessee to  
17 bind the lessee to the performance of such contract, then such  
18 money so deposited, with any accruing interest thereon, shall,  
19 until returned or applied in accordance with the terms of such  
20 contract or agreement, continue to be the money of the person  
21 making the deposit and shall become and remain a trust fund in  
22 the possession of the person with whom such deposit shall be  
23 made, and the person, firm or corporation, receiving such deposit  
24 shall be the holder of such fund as trustee, and as the trustee  
25 as herein defined shall forthwith, and within seven days after



1 the receipt of such trust fund, deposit the same in some bank or  
2 trust company in the county in which the cestui que trust shall  
3 reside or have his principal office or place of business, and  
4 such fund shall not be mingled with any other funds or assets of  
5 such trustee. Any person, firm or corporation receiving any  
6 money in trust, as herein defined, who shall violate any of the  
7 provisions of this section shall be deemed guilty of a  
8 misdemeanor; provided, however, that this section and section  
9 [456.050] 456.009 shall not apply to such transactions where the  
10 property used or leased is delivered to lessee at time of  
11 agreement and remains in the actual and continuous possession of  
12 lessee during the term of such agreement.

13 2. Subsection 1 of this section shall not apply to any  
14 lease entered into by lessors which are banks, trust companies,  
15 savings and loan associations, savings banks and credit unions,  
16 their subsidiaries and affiliates, or to any other financial  
17 institutions as defined in subdivision (4) of section 381.410,  
18 RSMo, or to other lessors in commercial lease transactions of at  
19 least twenty-five thousand dollars.

20 [456.050.] 456.009. Any person, firm or corporation being a  
21 trustee, as provided in section [456.040] 456.007, who shall  
22 violate any of the provisions thereof, shall pay to the depositor  
23 a sum of money double the amount of the deposit or advance  
24 payment, which may be recovered in any court of competent  
25 jurisdiction, together with a reasonable attorney's fee to be

1 fixed by the court and collected as other costs in the case. Any  
2 waiver or attempt to waive the provisions of sections [456.040  
3 and 456.050] 456.007 and 456.009 shall be void.

4 [456.060.] 456.011. A trust of real or personal property,  
5 or both, created as part of a stock bonus plan, pension plan,  
6 disability or death benefit plan, medical benefit plan,  
7 profit-sharing plan or retirement plan, for the exclusive benefit  
8 of employees or self-employed persons, to which contributions are  
9 made by an employer, or employees, or both, or by self-employed  
10 persons, for the purpose of distributing to such employees or  
11 self-employed persons the earnings or the principal, or both  
12 earnings and principal of the fund so held in trust, shall not be  
13 deemed to be invalid as violating any existing laws against  
14 perpetuities or suspension of the power of alienation of title to  
15 property; but such a trust may continue for such time as may be  
16 necessary to accomplish the purposes for which it may be created.

17 [456.070.] 456.013. The income arising from any property  
18 held in a trust created as part of a stock bonus plan, pension  
19 plan, disability or death benefit plan, medical benefit plan,  
20 profit-sharing plan or retirement plan for the exclusive benefit  
21 of employees or self-employed persons to which contributions are  
22 made by an employer or employees, or both, or by self-employed  
23 persons, for the purpose of distributing in accordance with such  
24 plan to such employees or self-employed persons the earnings or  
25 the principal or both earnings and principal of the trust fund,

1 may be permitted to accumulate until the fund shall be sufficient  
2 to accomplish the purposes of such plan.

3 [456.072.] 456.015. A trust created as part of a stock  
4 bonus plan, nonpublic pension plan, disability or death benefit  
5 plan, profit-sharing plan, or retirement plan, for the exclusive  
6 benefit of employees to which contributions are made by an  
7 employer, or participant, or both, for the purpose of  
8 distributing to such participant the earnings or the principal,  
9 or both earnings and principal of the fund so held in trust,  
10 shall be deemed to be a spendthrift trust if the plan or trust  
11 includes a provision restraining the assignment, alienation, or  
12 other voluntary or involuntary transfer of the interest of a  
13 participant in the trust. Prior to payment or delivery thereof  
14 to such participant by the plan trustee, such an interest of the  
15 participant shall be exempt from attachment or execution under  
16 the laws of this state, and such provision restraining the  
17 assignment, alienation, or other voluntary or involuntary  
18 transfer of the interest of a participant in the trust shall  
19 preclude any creditor of the participant from satisfying a claim  
20 from the assets or property of such a plan or trust before  
21 payment or delivery of such interest to the participant by the  
22 plan trustee, provided that the interest of any such participant  
23 shall be subject to attachment or execution pursuant to a  
24 qualified domestic relations order, as defined by section 414(p)  
25 of the federal Internal Revenue Code, as amended, issued by a

1 court in any proceeding for dissolution of marriage or legal  
2 separation or a proceeding for disposition of property following  
3 dissolution of marriage by a court which lacked personal  
4 jurisdiction over the absent spouse or lacked jurisdiction to  
5 dispose of marital property at the time of the original judgment  
6 of dissolution.

7 [456.075.] 456.017. The provisions of sections [456.060,  
8 456.070, and 456.072] 456.011, 456.013, and 456.015 shall apply  
9 to every trust of the kind described in such sections hereafter  
10 created or heretofore created or attempted to be created as if  
11 such sections had been effective on and after the date of the  
12 creation, or attempted creation, of each such trust.

13 [456.230.] 456.019. 1. In the administration of any trust  
14 which is a "private foundation", as defined in section 509 of the  
15 United States Internal Revenue Code, a "charitable trust", as  
16 defined in section 4947(a)(1) of the United States Internal  
17 Revenue Code, or a "split-interest trust", as defined in section  
18 4947(a)(2) of the United States Internal Revenue Code, the  
19 following acts shall be prohibited:

20 (1) Engaging in any act of "self-dealing", as defined in  
21 section 4941(d) of the United States Internal Revenue Code, which  
22 would give rise to any liability for the tax imposed by section  
23 4941(a) of the United States Internal Revenue Code;

24 (2) Retaining any "excess business holdings", as defined in  
25 section 4943(c) of the United States Internal Revenue Code, which

1 would give rise to any liability for the tax imposed by section  
2 4943(a) of the United States Internal Revenue Code;

3 (3) Making any investments which would jeopardize the  
4 carrying out of any of the exempt purposes of the trust, within  
5 the meaning of section 4944 of the United States Internal Revenue  
6 Code, so as to give rise to any liability for the tax imposed by  
7 section 4944(a) of the United States Internal Revenue Code; and

8 (4) Making any "taxable expenditures", as defined in  
9 section 4945(d) of the United States Internal Revenue Code, which  
10 would give rise to any liability for the tax imposed by section  
11 4945(a) of the United States Internal Revenue Code; provided,  
12 however, that this section shall not apply either to those  
13 split-interest trusts or to amounts thereof which are not subject  
14 to the prohibitions applicable to private foundations by reason  
15 of the provisions of section 4947 of the United States Internal  
16 Revenue Code.

17 2. In the administration of any trust which is a "private  
18 foundation", as defined in section 509 of the United States  
19 Internal Revenue Code, or which is a "charitable trust", as  
20 defined in section 4947(a)(1) of the United States Internal  
21 Revenue Code, there shall be distributed, for the purposes  
22 specified in the trust instrument, for each taxable year, amounts  
23 at least sufficient to avoid liability for the tax imposed by  
24 section 4942(a) of the United States Internal Revenue Code.

25 3. The provisions of subsections 1 and 2 of this section

1 shall not apply to any trust to the extent that a court of  
2 competent jurisdiction shall determine that such application  
3 would be contrary to the terms of the instrument governing such  
4 trust and that the same may not properly be changed to conform to  
5 such sections. The trustee shall not be held liable to anyone  
6 for any payments made under subsection 2 prior to such  
7 determination.

8 4. Nothing in this section shall impair the rights and  
9 powers of the courts or the attorney general of this state with  
10 respect to any trust.

11 5. All references to sections of the United States Internal  
12 Revenue Code shall be to such law as of June 14, 1971.

13 ~~[456.232.]~~ 456.021. A devise or other transfer, the  
14 validity of which is determinable by the law of this state, may  
15 be made by a will or other instrument of transfer, including a  
16 designation of beneficiary under a life insurance policy, to the  
17 trustee or trustees of a trust established or to be established  
18 by the testator or transferor or by the testator or transferor  
19 and some other person or persons or by some other person or  
20 persons, including a funded or unfunded life insurance trust,  
21 although the settlor thereof has reserved any or all rights of  
22 ownership of the insurance contracts, if the trust is identified  
23 in the testator's will or the instrument of transfer and its  
24 terms are set forth in a written instrument. The devise or  
25 transfer shall not be invalid because the trust is amendable or

1 revocable, or both, or because the trust was amended after the  
2 execution of the will, the delivery of the instrument of  
3 transfer, or the death of the testator. Notwithstanding whether  
4 a devise or transfer is made before or after August 28, 1996, a  
5 devise or transfer is valid if the devise or transfer is made  
6 only to the name of the trust or if the devise or transfer is  
7 made to the name or names of the trustee or trustees as the  
8 trustee or trustees of the trust. Unless the testator's will or  
9 the instrument of transfer provides otherwise, the property so  
10 devised:

11 (1) Shall not be deemed to be held under a testamentary  
12 trust of the testator or transferor but shall become a part of  
13 the trust to which it is given; and

14 (2) Shall be administered and disposed of in accordance  
15 with the provisions of the instrument or will setting forth the  
16 terms of the trust, including any amendments thereto made before  
17 the death of the testator or transferor, regardless of whether  
18 made before or after the execution of the testator's will or the  
19 delivery of the instrument of transfer, and, if the testator's  
20 will or the instrument of transfer so provides, including any  
21 amendments to the trust made after the death of the testator or  
22 transferor. A revocation or termination of the trust before the  
23 death of the testator shall cause a devise to the trustees of  
24 that trust to lapse.

25 [456.235.] 456.023. A general residuary clause in a will,

1 or a will making general disposition of all of the testator's  
2 property, does not exercise a power of appointment granted in an  
3 instrument creating or amending a trust unless specific reference  
4 is made to the power or there is some other indication of  
5 intention to include the property subject to the power.

6 [456.236.] 456.025. 1. The rule against perpetuities shall  
7 not apply to and any rule prohibiting unreasonable restraints on  
8 or suspension of the power of alienation shall not be violated by  
9 a trust if a trustee, or other person or persons to whom the  
10 power is properly granted or delegated, has the power pursuant to  
11 the terms of the trust or applicable law to sell the trust  
12 property during the period of time the trust continues beyond the  
13 period of the rule against perpetuities that would apply to the  
14 trust but for this subsection.

15 2. No rule against accumulations shall apply to a trust  
16 described in subsection 1 of this section unless the terms of the  
17 trust require that the income be accumulated during a period of  
18 time the trust continues beyond the period of the rule against  
19 perpetuities that would apply to the trust but for subsection 1  
20 of this section. If the terms of the trust require that the  
21 income be accumulated during any period of time the trust  
22 continues beyond the period of the rule against perpetuities that  
23 would apply to the trust but for subsection 1 of this section,  
24 then during that period of time the trustee shall have the power  
25 to make discretionary distributions of net income to such



1 recipients and in such shares and in such manner as most closely  
2 effectuates the settlor's or testator's manifested plan of  
3 distribution.

4 3. The provisions of this section apply to:

5 (1) Any trust created by a will or inter vivos agreement,  
6 or pursuant to the exercise of a power of appointment other than  
7 a general power of appointment granted under a will or inter  
8 vivos agreement, executed or amended on or after August 28, 2001;

9 (2) Any trust created pursuant to the exercise of a general  
10 power of appointment exercised in an instrument executed or  
11 amended on or after August 28, 2001; or

12 (3) Any trust created by a will or inter vivos agreement,  
13 or pursuant to the exercise of a power of appointment granted  
14 under a will or inter vivos agreement, executed or amended before  
15 August 28, 2001, if the laws of this state become applicable to  
16 the trust after such date, the laws of any other state applied to  
17 the trust before such date, and the rule against perpetuities did  
18 not apply to the trust pursuant to the laws of the other state.

19 4. As used in this section, the term "trust" [shall have  
20 the same meaning as in subdivision (2) of section 456.500, except  
21 that the term shall not include a trust that is not subject to  
22 the rule against perpetuities by reason of any other law of this  
23 state] means an express trust created by a trust instrument,  
24 including a will, whereby a trustee has the duty to administer a  
25 trust asset for the benefit of a named or otherwise described

1 income or principal beneficiary, or both. The term "trust" does  
2 not include a resulting or constructive trust, a business trust  
3 which provides for certificates to be issued to the beneficiary,  
4 an investment trust, a voting trust, a security instrument, a  
5 trust created by the judgment or decree of a court, a liquidation  
6 trust, or a trust for the primary purpose of paying dividends,  
7 interests, interest coupons, salaries, wages, pensions, or  
8 profits, or employee benefits of any kind, an instrument wherein  
9 a person is nominee or escrowee for another, a trust created in  
10 deposits in any financial institution, a trust that is not  
11 subject to the rule against perpetuities by reason of any other  
12 law of this state, or any other trust the nature of which does  
13 not admit of general trust administration.

14 [456.400.] 456.027. 1. The trustee of a trust having its  
15 principal place of administration in this state may register the  
16 trust in the probate division of the circuit court of the county  
17 wherein the principal place of administration is located.

18 2. "Trust" includes any express trust, private or  
19 charitable, with additions thereto, wherever and however created.  
20 It also includes a resulting or constructive trust created or  
21 determined by judgment or decree under which the trust is to be  
22 administered in the manner of an express trust. "Trust" excludes  
23 other constructive and resulting trusts, guardianships,  
24 conservatorships, decedents' estates, and trust accounts with  
25 financial institutions in the name of one or more parties as

1 trustee for one or more beneficiaries where the fiduciary  
2 relationship is established by the form of the account and the  
3 deposit agreement with the financial institution, and there is no  
4 subject of the trust other than the sums on deposit in such  
5 account. "Trust" also excludes custodial arrangements pursuant  
6 to chapter 404, RSMo, the Missouri Uniform Gifts to Minors Law,  
7 paying and transfer agencies, business trusts providing for  
8 certificates to be issued to beneficiaries, investment trusts,  
9 common trust funds, voting trusts, security instruments or  
10 arrangements, liquidation trusts, trusts for the primary purpose  
11 of paying debts, dividends, interest, salaries, wages, profits,  
12 pensions or employee benefits of any kind, and any arrangements  
13 under which a person is nominee or escrowee for another.

14 3. Unless otherwise designated in the trust instrument, the  
15 "principal place of administration of a trust" is the trustee's  
16 usual place of business where the records pertaining to the trust  
17 are kept, or at the trustee's residence if he has no such place  
18 of business. In the case of cotrustees, the principal place of  
19 administration, if not otherwise designated in the trust  
20 instrument, is:

21 (1) The usual place of business of the corporate trustee if  
22 there is but one corporate cotrustee; or

23 (2) The usual place of business or residence of the  
24 individual trustee who is a professional fiduciary if there is  
25 but one such person and no corporate cotrustee; and otherwise

1           (3) The usual place of business or residence of any of the  
2 cotrustees as agreed upon by them.

3           4. "Professional fiduciary" means an individual trustee who  
4 represents himself to the public as having specialized training,  
5 experience or skills in the administration of trusts.

6           5. The right to register under this section does not apply  
7 to the trustee of a trust if registration would be inconsistent  
8 with the retained jurisdiction of a foreign court from which the  
9 trustee cannot obtain release of registration.

10           [456.410.] 456.029. Such registration shall be accomplished  
11 by filing a statement, indicating the name and address of the  
12 trustee and acknowledging the trusteeship. The statement shall  
13 indicate whether the trust has been registered elsewhere and  
14 shall identify the trust:

15           (1) In the case of a testamentary trust, by the name of the  
16 testator and the date and place of domiciliary probate;

17           (2) In the case of a written inter vivos trust, by the name  
18 of each settlor and the original trustee and the date of the  
19 trust instrument; or

20           (3) In the case of an oral trust, by information  
21 identifying the settlor or other source of funds and describing  
22 the time and manner of the trust's creation and the terms of the  
23 trust, including the subject matter, beneficiaries and time of  
24 performance. A registration may be withdrawn by a similar  
25 statement.

1           [456.420.] 456.031. The clerk of the probate division of  
2 the circuit court shall keep a record for each trust so  
3 registered, including trust registration statements, petitions  
4 and applications, demands for notices or bonds, and of any orders  
5 or responses relating thereto by the court, and establish and  
6 maintain a system for indexing, filing or recording which is  
7 sufficient to enable users of the records to identify and obtain  
8 information about such registered trusts. Upon payment of the  
9 fees required by law the clerk must issue certified copies of any  
10 record or paper filed or recorded.

11           [456.430.] 456.033. 1. By registering a trust, or  
12 accepting the trusteeship of a registered trust, the trustee  
13 submits personally to the jurisdiction of the court in any  
14 proceeding involving the internal affairs of the trust that may  
15 be initiated by any interested person while the trust remains  
16 registered. Notice of any such proceeding shall be delivered to  
17 the trustee or mailed to him by ordinary first-class mail at his  
18 address as listed in the registration statement or as thereafter  
19 reported to the court and to his address as then known to the  
20 petitioner.

21           2. To the extent of their interests in the trust, all  
22 beneficiaries of a trust registered in this state are subject to  
23 the jurisdiction of the court of registration for the purposes of  
24 proceedings involving internal affairs of the trust, provided  
25 notice is given pursuant to section 472.100, RSMo.

1           3. "Interested persons" include beneficiaries and any  
2 others having a property right in or claim against a trust estate  
3 which may be affected by a judicial proceeding. It also includes  
4 persons and other fiduciaries representing interested persons.  
5 The meaning as it relates to particular persons may vary from  
6 time to time and must be determined according to the particular  
7 purposes of, and matter involved in, any proceeding.

8           4. "Internal affairs" proceedings, without limitation, are  
9 those which involve interpretation or construction of the terms  
10 of the trust by declarations, instructions or judgments as to the  
11 existence, nonexistence and extent of rights, powers, privileges,  
12 immunities, duties, liabilities and remedies of trustees and  
13 beneficiaries in the administration and distribution of trusts,  
14 including but not limited to proceedings concerning:

15           (1) The qualifications, appointment, removal,  
16 indemnification, reimbursement, exoneration or surcharge of  
17 trustees;

18           (2) The imposition, change and release of requirements for  
19 trustees' bonds;

20           (3) The employment of agents and compensation to them and  
21 to trustees;

22           (4) The review and settlement of interim and final  
23 accounts;

24           (5) The propriety of investments or of principal and income  
25 allocations;

1           (6) The allowance of deviations from or modifications of  
2 trust terms;

3           (7) The ascertainment of beneficiaries or of beneficial  
4 interests;

5           (8) The requirements for release of registration or change  
6 of principal place of administration;

7           (9) The timing and quantity of distributions and  
8 dispositions of assets;

9           (10) The validity and effect of alienations by  
10 beneficiaries, by exercise of powers of appointment or otherwise;  
11 and

12           (11) Terminations of trusts.

13           [456.620.] 456.035. 1. A certified or authenticated copy  
14 of a death certificate purporting to be issued by an official or  
15 agency of the place where the death purportedly occurred is prima  
16 facie proof of the fact, place, date and time of death and the  
17 identity of the deceased settlor, trustee, beneficiary or other  
18 interested person.

19           2. A certified or authenticated copy of any record or  
20 report of a governmental agency, domestic or foreign, that a  
21 person is missing, detained, dead, or alive is prima facie  
22 evidence of the status and of the dates, circumstances and places  
23 disclosed by the record or report.

24           3. A person who is absent for a continuous period of five  
25 years, during which he has not been heard from, and whose absence

1 is not satisfactorily explained after diligent search or inquiry  
2 is presumed to be dead. His death is presumed to have occurred  
3 at the end of the period unless there is sufficient evidence for  
4 determining that death occurred earlier.

5 [456.640.] 456.037. 1. Property of any kind remaining in a  
6 trust which is not subject to administration or distribution to  
7 or for an identifiable beneficiary may be deemed to be unclaimed  
8 property when the trustee, after reasonable and diligent search,  
9 is unable to find or ascertain the existence of any heirs, legal  
10 representatives, successors or assigns of any beneficiary to whom  
11 such property is distributable by the trust instrument, by any  
12 other instrument pertaining to the trust estate, or by the laws  
13 of Missouri.

14 2. Property of any kind remaining in a trust, which is  
15 distributable to or for the benefit of an identified beneficiary,  
16 may be deemed to be unclaimed when such beneficiary has, for  
17 three years after a good faith attempt to notify him in writing  
18 of his right to such property, failed or refused to claim the  
19 property.

20 [456.650.] 456.039. 1. Any trustee holding such unclaimed  
21 property may file with the state treasurer a verified statement  
22 setting forth the reason or reasons why such property is presumed  
23 to be unclaimed, the efforts made to find or ascertain any heirs,  
24 legal representatives, successors or assigns of any beneficiary  
25 or beneficiaries to whom such property is distributable, a list



1 of all instruments known to the trustee that pertain to the trust  
2 and their location, with copies of those that are in possession  
3 of the trustee, and any further facts causing the trustee to  
4 believe that the property is unclaimed, and transfer such  
5 property to the state treasurer, who shall issue his receipt  
6 therefor.

7 2. All property so received shall be credited to the  
8 escheat fund of the state of Missouri.

9 [456.660.] 456.041. 1. The payment or delivery of such  
10 unclaimed property to the state treasurer by the trustee shall  
11 terminate any legal relationship between the trustee and  
12 beneficiary or apparent beneficiary to receive such property and  
13 shall release and discharge the trustee from any and all  
14 liability to such beneficiary, his heirs, personal  
15 representatives, successors and assigns by such payment or  
16 delivery, regardless of whether such property is in fact or in  
17 law unclaimed property.

18 2. Such payment or delivery may be pleaded as a bar to  
19 recovery and shall be a defense in any suit or action brought by  
20 the apparent owner, or his heirs, personal representatives,  
21 successors or assigns, or any claimant against the trustee by  
22 reason of the delivery of payment.

23 [456.240.] 469.240. 1. In sections [456.240 to 456.350]  
24 469.240 to 469.350 unless the context or subject matter otherwise  
25 requires:

1           (1) "Bank" includes any person or association of persons,  
2 whether incorporated or not, carrying on the business of banking;

3           (2) "Fiduciary" includes a trustee under any trust,  
4 expressed, implied, resulting or constructive, executor,  
5 administrator, guardian, conservator, curator, receiver, trustee  
6 in bankruptcy, assignee for the benefit of creditors, partner,  
7 agent, officer of a corporation, public or private, public  
8 officer, or any other person acting in a fiduciary capacity for  
9 any person, trust or estate;

10          (3) "Person" includes a corporation, partnership, or other  
11 association, or two or more persons having a joint or common  
12 interest;

13          (4) "Principal" includes any person to whom a fiduciary as  
14 such owes an obligation.

15          2. A thing is done "in good faith" within the meaning of  
16 sections [456.240 to 456.350] 469.240 to 469.350, when it is in  
17 fact done honestly, whether it be done negligently or not.

18          [456.250.] 469.250. A person who in good faith pays or  
19 transfers to a fiduciary or to any other person as directed by a  
20 fiduciary any money or other property which the fiduciary as such  
21 is authorized to receive, is not responsible for the proper  
22 application thereof by the fiduciary, and any right or title  
23 acquired from the fiduciary in consideration of such payment or  
24 transfer is not invalid in consequence of a misapplication by the  
25 fiduciary.

1           [456.260.] 469.260. If any negotiable instrument payable or  
2 endorsed to a fiduciary as such is endorsed by the fiduciary, or  
3 if any negotiable instrument payable or endorsed to his principal  
4 is endorsed by a fiduciary empowered to endorse such instrument  
5 on behalf of his principal, the endorsee is not bound to inquire  
6 whether the fiduciary is committing a breach of his obligation as  
7 fiduciary in endorsing or delivering the instrument, and is not  
8 chargeable with notice that the fiduciary is committing a breach  
9 of his obligation as fiduciary unless he takes the instrument  
10 with actual knowledge of such breach or with knowledge of such  
11 facts that his action in taking the instrument amounts to bad  
12 faith. If, however, such instrument is transferred by the  
13 fiduciary in payment of or as security for a personal debt of the  
14 fiduciary to the actual knowledge of the creditor, or is  
15 transferred in any transaction known by the transferee to be for  
16 the personal benefit of the fiduciary, the creditor or other  
17 transferee is liable to the principal if the fiduciary in fact  
18 commits a breach of his obligation as fiduciary in transferring  
19 the instrument.

20           [456.270.] 469.270. If a check or other bill of exchange is  
21 drawn by a fiduciary as such, or in the name of his principal by  
22 a fiduciary empowered to draw such instrument in the name of his  
23 principal, the payee is not bound to inquire whether the  
24 fiduciary is committing a breach of his obligation as fiduciary  
25 in drawing or delivering the instrument, and is not chargeable

1 with notice that the fiduciary is committing a breach of his  
2 obligation as fiduciary unless he takes the instrument with  
3 actual knowledge of such breach or with knowledge of such facts  
4 that this action in taking the instrument amounts to bad faith.  
5 If, however, such instrument is payable to a personal creditor of  
6 the fiduciary and delivered to the creditor in payment of or as  
7 security for a personal debt of the fiduciary to the actual  
8 knowledge of the creditor, or is drawn and delivered in any  
9 transaction known by the payee to be for the personal benefit of  
10 the fiduciary, the creditor or other payee is liable to the  
11 principal if the fiduciary in fact commits a breach of his  
12 obligation as fiduciary in drawing or delivering the instrument.

13       [456.280.] 469.280. If a check or other bill of exchange is  
14 drawn by a fiduciary as such or in the name of his principal by a  
15 fiduciary empowered to draw such instrument in the name of his  
16 principal, payable to the fiduciary personally, or payable to a  
17 third person and by him transferred to the fiduciary, and is  
18 thereafter transferred by the fiduciary, whether in payment of a  
19 personal debt of the fiduciary or otherwise, the transferee is  
20 not bound to inquire whether the fiduciary is committing a breach  
21 of his obligation as fiduciary in transferring the instrument,  
22 and is not chargeable with notice that the fiduciary is  
23 committing a breach of his obligation as fiduciary unless he  
24 takes the instrument with actual knowledge of such breach or with  
25 knowledge of such facts that his action in taking the instrument

1 amounts to bad faith.

2       [456.290.] 469.290. If a deposit is made in a bank to the  
3 credit of a fiduciary as such, the bank is authorized to pay the  
4 amount of the deposit or any part thereof upon the check of the  
5 fiduciary, signed with the name in which such deposit is entered,  
6 without being liable to the principal, unless the bank pays the  
7 check with actual knowledge that the fiduciary is committing a  
8 breach of his obligation as fiduciary in drawing the check or  
9 with knowledge of such facts that its action in paying the check  
10 amounts to bad faith. If, however, such a check is payable to the  
11 drawee bank and is delivered to it in payment of or as security  
12 for a personal debt of the fiduciary to it, the bank is liable to  
13 the principal if the fiduciary in fact commits a breach of his  
14 obligation as fiduciary in drawing or delivering the check.

15       [456.300.] 469.300. If a check is drawn upon the account of  
16 his principal in a bank by a fiduciary who is empowered to draw  
17 checks upon his principal's account, the bank is authorized to  
18 pay such check without being liable to the principal, unless the  
19 bank pays the check with actual knowledge that the fiduciary is  
20 committing a breach of his obligation as fiduciary in drawing  
21 such check, or with knowledge of such facts that its action in  
22 paying the check amounts to bad faith. If, however, such a check  
23 is payable to the drawee bank and is delivered to it in payment  
24 of or as security for a personal debt of the fiduciary to it, the  
25 bank is liable to the principal if the fiduciary in fact commits

1 a breach of his obligation as fiduciary in drawing or delivering  
2 the check.

3 [456.310.] 469.310. If a fiduciary makes a deposit in a bank  
4 to his personal credit of checks drawn by him upon an account in  
5 his own name as fiduciary, or of checks payable to him as  
6 fiduciary, or of checks drawn by him upon an account in the name  
7 of his principal if he is empowered to draw checks thereon, or of  
8 checks payable to his principal and endorsed by him, if he is  
9 empowered to endorse such checks, or if he otherwise makes a  
10 deposit of funds held by him as fiduciary, the bank receiving  
11 such deposit is not bound to inquire whether the fiduciary is  
12 committing thereby a breach of his obligation as fiduciary; and  
13 the bank is authorized to pay the amount of the deposit or any  
14 part thereof upon the personal check of the fiduciary without  
15 being liable to the principal, unless the bank receives the  
16 deposit or pays the check with actual knowledge that the  
17 fiduciary is committing a breach of his obligation as fiduciary  
18 in making such deposit or in drawing such check, or with  
19 knowledge of such facts that its action in receiving the deposit  
20 or paying the check amounts to bad faith.

21 [456.320.] 469.320. When a deposit is made in a bank in the  
22 name of two or more persons as trustees and a check is drawn upon  
23 the trust account by any trustee or trustees authorized by the  
24 other trustee or trustees to draw checks upon the trust account,  
25 neither the payee nor other holder nor the bank is bound to

1 inquire whether it is a breach of trust to authorize such trustee  
2 or trustees to draw checks upon the trust account, and is not  
3 liable unless the circumstances be such that the action of the  
4 payee or other holder or the bank amounts to bad faith.

5 [456.330.] 469.330. In any case not provided for in  
6 sections [456.240 to 456.350] 469.240 to 469.350 the rules of law  
7 and equity, including the law merchant and those rules of law and  
8 equity relating to trusts, agency, negotiable instruments and  
9 banking, shall continue to apply.

10 [456.340.] 469.340. This law shall be so interpreted and  
11 construed as to effectuate its general purpose to make uniform  
12 the law of those states which enact it.

13 [456.350.] 469.350. Sections [456.240 to 456.350] 469.240  
14 to 469.350 may be cited as the "Uniform Fiduciaries Law".

15 469.401. As used in sections 469.401 to 469.467, the  
16 following terms mean:

17 (1) "Accounting period", a calendar year unless another  
18 twelve-month period is selected by a fiduciary. The term  
19 includes a portion of a calendar year or other twelve-month  
20 period that begins when an income interest begins or ends when an  
21 income interest ends;

22 (2) "Beneficiary", an heir, legatee and devisee of a  
23 decedent's estate, and an income beneficiary and a remainder  
24 beneficiary of a trust, including any type of entity that has a  
25 beneficial interest in either an estate or a trust;

1           (3) "Fiduciary", a personal representative, trustee,  
2           executor, administrator, successor personal representative,  
3           special administrator and any other person performing  
4           substantially the same function;

5           (4) "Income", money or property that a fiduciary receives  
6           as current return from a principal asset, including a portion of  
7           receipts from a sale, exchange or liquidation of a principal  
8           asset, as provided in sections 469.423 to 469.449;

9           (5) "Income beneficiary", a person to whom net income of a  
10          trust is or may be payable;

11          (6) "Income interest", the right of an income beneficiary  
12          to receive all or part of net income, whether the terms of the  
13          trust require it to be distributed or authorize it to be  
14          distributed in the trustee's discretion;

15          (7) "Mandatory income interest", the right of an income  
16          beneficiary to receive net income that the terms of the trust  
17          require the fiduciary to distribute;

18          (8) "Net income", if section 469.411 applies to the trust,  
19          the unitrust amount, or if section 469.411 does not apply to the  
20          trust, the total receipts allocated to income during an  
21          accounting period minus the disbursements made from income during  
22          the same period, plus or minus transfers pursuant to sections  
23          469.401 to 469.467 to or from income during the same period;

24          (9) "Person", an individual, corporation, business trust,  
25          estate, trust, partnership, limited liability company,



1 association, joint venture, government, governmental subdivision,  
2 agency, or instrumentality, public corporation or any other legal  
3 or commercial entity;

4 (10) "Principal", property held in trust for distribution  
5 to a remainder beneficiary when the trust terminates;

6 (11) "Qualified beneficiary", a beneficiary [who, on the  
7 date qualification is determined, either is entitled or eligible  
8 to receive a distribution of trust income or principal, or would  
9 be entitled to receive a distribution if the event causing the  
10 trust to terminate occurred on that date] defined in section  
11 456.1-103, RSMo;

12 (12) "Remainder beneficiary", a person entitled to receive  
13 principal when an income interest ends;

14 (13) "Terms of a trust", the manifestation of the settlor's  
15 or decedent's intent expressed in a manner which is admissible as  
16 proof in a judicial proceeding, whether by written or spoken  
17 words or by conduct;

18 (14) "Trustee", an original, additional or successor  
19 trustee, whether or not appointed or confirmed by a court;

20 (15) "Unitrust amount", net income as defined by section  
21 469.411.

22 469.402. The provisions of sections 456.3-301 to 456.3-305  
23 shall apply to sections 469.401 to 469.467 for all purposes.

24 469.409. 1. Any claim for breach of a trustee's duty to  
25 impartially administer a trust related, directly or indirectly,

1 to an adjustment made by a fiduciary to the allocation between  
2 principal and income pursuant to subsection 1 of section 469.405  
3 or any allocation made by the fiduciary pursuant to any authority  
4 or discretion specified in subsection 1 of section 469.403,  
5 unless previously barred by adjudication, consent or other  
6 limitation, shall be barred as provided in this section.

7 (1) Any such claim brought by a qualified beneficiary is  
8 barred if not asserted in a judicial proceeding commenced within  
9 two years after the trustee has sent a report to that qualified  
10 beneficiary that adequately discloses the facts constituting the  
11 claim.

12 (2) Any such claim [is barred if not asserted in a judicial  
13 proceeding brought by any beneficiary] brought by a beneficiary  
14 (other than a qualified beneficiary) with any interest whatsoever  
15 in the trust, no matter how remote or contingent, or whether or  
16 not the beneficiary is ascertainable or has the capacity to  
17 contract, is barred if not asserted in a judicial proceeding  
18 commenced within two years after the first to occur of:

19 (a) The date the trustee [has] sent a report to all  
20 qualified beneficiaries that adequately discloses the facts  
21 constituting the claim; or

22 (b) The date the trustee sent a report to a person that  
23 represents the beneficiary under the provisions of subdivision  
24 (2) of subsection 2 of this section.

25 2. For purposes of this section the following rules shall

1       apply:

2           (1) A report adequately discloses the facts constituting a  
3       claim if it provides sufficient information so that the  
4       beneficiary should know of the claim or reasonably should have  
5       inquired into its existence;

6           (2) [A qualified beneficiary is deemed to have been sent a  
7       report if:

8           (a) In the case of a qualified beneficiary who has the  
9       capacity to contract, the report is either delivered personally  
10      to the beneficiary or sent to the beneficiary at the  
11      beneficiary's last known address;

12          (b) In the case of a qualified beneficiary who lacks the  
13      capacity to contract, the report is either hand delivered to a  
14      person with respect to whom pursuant to subdivision (2) of  
15      section 472.300, RSMo, an order would bind that beneficiary with  
16      respect to the subject of the claim or sent to the person at that  
17      person's last known address, provided that there is no conflict  
18      of interest between that person and the qualified beneficiary  
19      that person is representing] Section 469.402 shall apply in  
20      determining whether a beneficiary (including a qualified  
21      beneficiary) has received notice for purposes of this section;

22          (3) The determination of the identity of all qualified  
23      beneficiaries shall be made on the date the report is deemed to  
24      have been sent; and

25          (4) This section does not preclude an action to recover for

1 fraud or misrepresentation related to the report.

2 469.411. 1. If the provisions of this section apply to a  
3 trust, the unitrust amount shall be determined as follows:

4 (1) For the first three accounting periods of the trust,  
5 the unitrust amount for a current valuation year of the trust  
6 shall be [three percent, or any higher percentage] a percentage  
7 between three and five percent that is specified by the terms of  
8 the governing instrument or by the election made in accordance  
9 with subdivision (2) of subsection 5 of this section, of the net  
10 fair market values of the assets held in the trust on the first  
11 business day of the current valuation year;

12 (2) Beginning with the fourth accounting period of the  
13 trust, the unitrust amount for a current valuation year of the  
14 trust shall be [three percent, or any higher percentage] a  
15 percentage between three and five percent that is specified by  
16 the terms of the governing instrument or by the election made in  
17 accordance with subdivision (2) of subsection 5 of this section,  
18 of the average of the net fair market values of the assets held  
19 in the trust on the first business day of the current valuation  
20 year and the net fair market values of the assets held in the  
21 trust on the first business day of each prior valuation year, and  
22 regardless of whether this section applied to the ascertainment  
23 of net income for all valuation years;

24 (3) The unitrust amount for the current valuation year  
25 computed pursuant to subdivision (1) or (2) of this subsection

1 shall be proportionately reduced for any distributions, in whole  
2 or in part, other than distributions of the unitrust amount, and  
3 for any payments of expenses, including debts, disbursements and  
4 taxes, from the trust within a current valuation year that the  
5 trustee determines to be material and substantial, and shall be  
6 proportionately increased for the receipt, other than a receipt  
7 that represents a return on investment, of any additional  
8 property into the trust within a current valuation year;

9 (4) For purposes of subdivision (2) of this subsection, the  
10 net fair market values of the assets held in the trust on the  
11 first business day of a prior valuation year shall be adjusted to  
12 reflect any reduction, in the case of a distribution or payment,  
13 or increase, in the case of a receipt, for the prior valuation  
14 year pursuant to subdivision (3) of this subsection, as if the  
15 distribution, payment or receipt had occurred on the first day of  
16 the prior valuation year;

17 (5) In the case of a short accounting period, the trustee  
18 shall prorate the unitrust amount on a daily basis;

19 (6) In the case where the net fair market value of an asset  
20 held in the trust has been incorrectly determined either in a  
21 current valuation year or in a prior valuation year, the unitrust  
22 amount shall be increased in the case of an undervaluation, or be  
23 decreased in the case of an overvaluation, by an amount equal to  
24 the difference between the unitrust amount determined based on  
25 the correct valuation of the asset and the unitrust amount

1 originally determined.

2 2. As used in this section, the following terms mean:

3 (1) "Current valuation year", the accounting period of the  
4 trust for which the unitrust amount is being determined;

5 (2) "Prior valuation year", each of the two accounting  
6 periods of the trust immediately preceding the current valuation  
7 year.

8 3. In determining the sum of the net fair market values of  
9 the assets held in the trust for purposes of subdivisions (1) and  
10 (2) of subsection 1 of this section, there shall not be included  
11 the value of:

12 (1) Any residential property or any tangible personal  
13 property that, as of the first business day of the current  
14 valuation year, one or more income beneficiaries of the trust  
15 have or had the right to occupy, or have or had the right to  
16 possess or control, other than in a capacity as trustee, and  
17 instead the right of occupancy or the right to possession or  
18 control shall be deemed to be the unitrust amount with respect to  
19 the residential property or the tangible personal property; or

20 (2) Any asset specifically given to a beneficiary under the  
21 terms of the trust and the return on investment on that asset,  
22 which return on investment shall be distributable to the  
23 beneficiary.

24 4. In determining the net fair market value of each asset  
25 held in the trust pursuant to subdivisions (1) and (2) of

1 subsection 1 of this section, the trustee shall, not less often  
2 than annually, determine the fair market value of each asset of  
3 the trust that consists primarily of real property or other  
4 property that is not traded on a regular basis in an active  
5 market by appraisal or other reasonable method or estimate, and  
6 that determination, if made reasonably and in good faith, shall  
7 be conclusive as to all persons interested in the trust. Any  
8 claim based on a determination made pursuant to this subsection  
9 shall be barred if not asserted in a judicial proceeding brought  
10 by any beneficiary with any interest whatsoever in the trust  
11 within two years after the trustee has sent a report to all  
12 qualified beneficiaries that adequately discloses the facts  
13 constituting the claim. The rules set forth in subsection 2 of  
14 section 469.409 shall apply to the barring of claims pursuant to  
15 this subsection.

16 5. This section shall apply to the following trusts:

17 (1) Any trust created after August 28, 2001, with respect  
18 to which the terms of the trust clearly manifest an intent that  
19 this section apply;

20 (2) Any trust created under an instrument that became  
21 irrevocable on ~~[or], before, or after~~ August 28, 2001, if the  
22 trustee, in the trustee's discretion, elects to have this section  
23 apply [two years from August 28, 2001,] unless the instrument  
24 creating the trust [provides otherwise] specifically prohibits an  
25 election under this subdivision. The trustee shall deliver

1 notice to all qualified beneficiaries and the settlor of the  
2 trust, if he or she is then living, of the trustee's intent to  
3 make such an election at least sixty days before making that  
4 election. The trustee shall have sole authority to make the  
5 election. [Delivery of the notice to a person with respect to  
6 whom, pursuant to subdivision (2) of section 472.300, RSMo, an  
7 order would bind a beneficiary of the trust is delivery of notice  
8 to that beneficiary for all purposes of this subsection.] Section  
9 469.402 shall apply for all purposes of this subdivision. An  
10 action or order by any court shall not be required. The election  
11 shall be made by a signed writing delivered to the settlor of the  
12 trust, if he or she is then living, and to all qualified  
13 beneficiaries. The election is irrevocable, unless revoked by  
14 order of the court having jurisdiction of the trust. The  
15 election may specify the percentage used to determine the  
16 unitrust amount pursuant to this section, provided that such  
17 percentage is [three percent or greater] between three and five  
18 percent, or if no percentage is specified, then that percentage  
19 shall be three percent. In making an election pursuant to this  
20 subsection, the trustee shall be subject to the same limitations  
21 and conditions as apply to an adjustment between income and  
22 principal pursuant to subsections 3 and 4 of section 469.405;

23 (3) No action of any kind based on an election made [or not  
24 made] by a trustee pursuant to subdivision (2) of this subsection  
25 shall be brought against the trustee by any beneficiary of that



1 trust three years from [August 28, 2001] the effective date of  
2 that election.

3 (4) If this section is made applicable under this  
4 subdivision to an institutional endowment fund, as defined in  
5 section 402.010, RSMo, the restrictions contained in section  
6 402.015, RSMo, shall not apply to the extent payment of a  
7 unitrust amount would otherwise be prohibited.

8 469.419. 1. A trustee shall allocate an income receipt or  
9 disbursement other than one to which subsection 1 of section  
10 469.413 applies to principal if its due date occurs before a  
11 decedent dies in the case of an estate or before an income  
12 interest begins in the case of a trust or successive income  
13 interest.

14 2. A trustee shall allocate an income receipt or  
15 disbursement to income if its due date occurs on or after the  
16 date on which a decedent dies or an income interest begins and it  
17 is a periodic due date. An income receipt or disbursement shall  
18 be treated as accruing from day to day if its due date is not  
19 periodic or it has no due date. The portion of the receipt or  
20 disbursement accruing before the date on which a decedent dies or  
21 an income interest begins shall be allocated to principal and the  
22 balance shall be allocated to income.

23 3. An item of income or an obligation is due on the date a  
24 payment is required. If a payment date is not stated, there is  
25 no due date for the purposes of sections 469.401 to 469.467.

1 Distributions to shareholders or other owners from an entity to  
2 which section 469.423 applies are deemed to be due on the date  
3 fixed by the entity for determining who is entitled to receive  
4 the distribution or, if no date is fixed, on the declaration date  
5 for the distribution. A due date is periodic for receipts or  
6 disbursements that shall be paid at regular intervals under a  
7 lease or an obligation to pay interest or if an entity  
8 customarily makes distributions at regular intervals.

9 469.423. 1. For purposes of this section, the term  
10 "entity" means a corporation, partnership, limited liability  
11 company, regulated investment company, real estate investment  
12 trust, common trust fund, or any other organization in which a  
13 trustee has an interest, other than a trust or estate to which  
14 section 469.425 applies, a business or activity to which section  
15 469.427 applies, or an asset-backed security to which section  
16 [469.447] 469.449 applies.

17 2. Except as otherwise provided in this section, a trustee  
18 shall allocate to income money received from an entity.

19 3. A trustee shall allocate the following receipts from an  
20 entity to principal:

21 (1) Property other than money;

22 (2) Money received in one distribution or a series of  
23 related distributions in exchange for part or all of a trust's  
24 interest in the entity;

25 (3) Money received in total or partial liquidation of the

1       entity; and

2               (4) Money received from an entity that is a regulated  
3       investment company or a real estate investment trust if the money  
4       distributed is a capital gain dividend for federal income tax  
5       purposes.

6               4. Money is received in partial liquidation:

7               (1) To the extent that the entity, at or near the time of a  
8       distribution, indicates that such money is a distribution in  
9       partial liquidation; or

10              (2) If the total amount of money and property received in a  
11       distribution or series of related distributions is greater than  
12       twenty percent of the entity's gross assets, as shown by the  
13       entity's year-end financial statements immediately preceding the  
14       initial receipt.

15              5. Money is not received in partial liquidation, nor may it  
16       be taken into account pursuant to subdivision (2) of subsection 4  
17       of this section, to the extent that such money does not exceed  
18       the amount of income tax that a trustee or beneficiary shall pay  
19       on taxable income of the entity that distributes the money.

20              6. A trustee may rely upon a statement made by an entity  
21       about the source or character of a distribution if the statement  
22       is made at or near the time of distribution by the entity's board  
23       of directors or other person or group of persons authorized to  
24       exercise powers to pay money or transfer property comparable to  
25       those of a corporation's board of directors.

1           469.435. If a trustee determines that an allocation between  
2 principal and income required by section 469.437, 469.439,  
3 469.441, 469.443 or [469.447] 469.449 is insubstantial, the  
4 trustee may allocate the entire amount to principal unless one of  
5 the circumstances described in subsection 3 of section 469.405  
6 applies to the allocation. This power may be exercised by a  
7 cotrustee in the circumstances described in subsection 4 of  
8 section 469.405 and may be released for the reasons and in the  
9 manner described in subsection 5 of section 469.405. An  
10 allocation is presumed to be insubstantial if:

11           (1) The amount of the allocation would increase or decrease  
12 net income in an accounting period, as determined before the  
13 allocation, by less than ten percent; or

14           (2) The value of the asset producing the receipt for which  
15 the allocation would be made is less than ten percent of the  
16 total value of the trust's assets at the beginning of the  
17 accounting period.

18           469.449. 1. As used in this section, the phrase  
19 "asset-backed security" means an asset whose value is based upon  
20 the right it gives the owner to receive distributions from the  
21 proceeds of financial assets that provide collateral for the  
22 security. The phrase includes an asset that gives the owner the  
23 right to receive from the collateral financial assets only the  
24 interest or other current return or only the proceeds other than  
25 interest or current return. The phrase does not include an asset

1 to which section 469.423 or [469.435] 469.437 applies.

2 2. If a trust receives a payment from interest or other  
3 current return and from other proceeds of the collateral  
4 financial assets, the trustee shall allocate to income the  
5 portion of the payment which the payer identifies as being from  
6 interest or other current return and shall allocate the balance  
7 of the payment to principal.

8 3. If a trust receives one or more payments in exchange for  
9 the trust's entire interest in an asset-backed security in one  
10 accounting period, the trustee shall allocate the payments to  
11 principal. If a payment is one of a series of payments that will  
12 result in the liquidation of the trust's interest in the security  
13 over more than one accounting period, the trustee shall allocate  
14 ten percent of the payment to income and the balance to  
15 principal.

16 469.453. 1. A trustee shall make the following  
17 disbursements from principal:

18 (1) The remaining one-half of the disbursements described  
19 in subdivisions (1) and (2) of section 469.451;

20 (2) All of the trustee's compensation calculated on  
21 principal as a fee for acceptance, distribution or termination,  
22 and disbursements made to prepare property for sale;

23 (3) Payments on the principal of a trust debt;

24 (4) Expenses of a proceeding or other matter that concerns  
25 primarily an interest in principal;

1           (5) Premiums paid on a policy of insurance not described in  
2 subdivision (4) of section 469.451 of which the trust is the  
3 owner and beneficiary;

4           (6) Estate, inheritance and other transfer taxes, including  
5 penalties, apportioned to the trust; and

6           (7) Extraordinary expenses incurred in connection with the  
7 management and preservation of trust property;

8           (8) Expenses for a capital improvement to a principal  
9 asset, whether in the form of changes to an existing asset or the  
10 construction of a new asset, including special assessments; and

11          (9) Disbursements related to environmental matters,  
12 including reclamation, assessing environmental conditions,  
13 remedying and removing environmental contamination, monitoring  
14 remedial activities and the release of substances, preventing  
15 future releases of substances, collecting amounts from persons  
16 liable or potentially liable for the costs of those activities,  
17 penalties imposed under environmental laws or regulations and  
18 other payments made to comply with those laws or regulations,  
19 statutory or common law claims by third parties, and defending  
20 claims based on environmental matters.

21          2. If a principal asset is encumbered with an obligation  
22 that requires income from that asset to be paid directly to the  
23 creditor, the trustee shall transfer from principal to income an  
24 amount equal to the income paid to the creditor in reduction of  
25 the principal balance of the obligation.

1           [456.900.] 469.900. Sections [456.900 to 456.913] 469.900  
2 to 469.913 shall be known, and may be cited, as the "Missouri  
3 Prudent Investor Act". As used in this act, the term "trustee"  
4 includes independent personal representatives and trustees,  
5 whether of express or implied trusts, and the term "trust"  
6 includes independently administered estates.

7           [456.901.] 469.901. 1. Except as otherwise provided in  
8 subsection 2 of this section, or by other applicable laws, a  
9 trustee who invests and manages trust assets owes a duty to the  
10 beneficiaries of the trust to comply with the prudent investor  
11 rule set forth in this act.

12           2. A settlor may expand or restrict the prudent investor  
13 rule detailed in this act by express provisions in the trust  
14 instrument. A trustee is not liable to a beneficiary for the  
15 trustee's good faith reliance on these express provisions.

16           [456.902.] 469.902. 1. A trustee shall invest and manage  
17 trust assets as a prudent investor would, by considering the  
18 purposes, terms, distribution requirements, and other  
19 circumstances of the trust. In satisfying this standard, the  
20 trustee shall exercise reasonable care, skill, and caution.

21           2. A trustee's investment and management decisions  
22 respecting individual assets and courses of action must be  
23 evaluated not in isolation but in the context of the trust  
24 portfolio as a whole and as a part of an overall investment  
25 strategy having risk and return objectives reasonably suited to

1 the trust.

2 3. When investing and managing trust assets, a trustee  
3 shall consider the following as are relevant to the trust or its  
4 beneficiaries:

5 (1) General economic conditions;

6 (2) The possible effect of inflation or deflation;

7 (3) The expected tax consequences of investment decisions  
8 or strategies;

9 (4) The role that each investment or course of action plays  
10 within the overall trust portfolio;

11 (5) The expected total return from income and the  
12 appreciation of capital;

13 (6) Other resources of the beneficiaries known to the  
14 trustee;

15 (7) Needs for liquidity, regularity of income, and  
16 preservation or appreciation of capital;

17 (8) An asset's special relationship or special value, if  
18 any, to the purposes of the trust or to one or more of the  
19 beneficiaries; and

20 (9) The size of the portfolio, nature and estimated  
21 duration of the fiduciary relationship and distribution  
22 requirements under the governing instrument.

23 4. A trustee shall make a reasonable effort to ascertain  
24 facts relevant to the investment and management of trust assets.

25 5. A trustee may invest in any kind of property or type of



1 investment consistent with the standards of this act.

2 6. A trustee who has special skills or expertise, or is  
3 named trustee in reliance upon the trustee's representation that  
4 the trustee has special skills or expertise, has a duty to use  
5 those special skills or expertise when investing and managing  
6 trust assets.

7 [456.903.] 469.903. A trustee shall diversify the  
8 investments of the trust unless the trustee reasonably determines  
9 that, because of special circumstances, the purposes of the trust  
10 are better served without diversifying.

11 [456.904.] 469.904. Within a reasonable time after  
12 accepting a trusteeship or receiving trust assets, a trustee  
13 shall review the trust assets and make and implement decisions  
14 concerning the retention and disposition of assets in order to  
15 bring the trust portfolio into compliance with the purposes,  
16 terms, distribution requirements, and other circumstances of the  
17 trust, and with the requirements of this act.

18 [456.905.] 469.905. A trustee shall invest and manage the  
19 trust assets solely in the interest of the beneficiaries.

20 [456.906.] 469.906. If a trust has two or more  
21 beneficiaries, the trustee shall act impartially in investing and  
22 managing the trust assets, taking into account any differing  
23 interests of the beneficiaries.

24 [456.907.] 469.907. In investing and managing trust assets,  
25 a trustee may only incur costs that are appropriate and

1 reasonable in relation to the assets, the purposes of the trust,  
2 and the skills of the trustee.

3 [456.908.] 469.908. The prudent investor rule imposes a  
4 standard of conduct, but does not contemplate a specific outcome  
5 or performance. Compliance with the prudent investor rule is  
6 determined in light of the facts and circumstances existing at  
7 the time of a trustee's decision or action and not by hindsight.

8 [456.909.] 469.909. 1. A trustee may delegate investment  
9 and management functions that a prudent trustee of comparable  
10 skills could properly delegate under the circumstances. The  
11 trustee shall exercise reasonable care, skill, and caution in:

12 (1) Selecting an agent suitable to the exercise of the  
13 delegated function, taking into account the nature and the value  
14 of the assets subject to such delegation and the expertise of the  
15 agent;

16 (2) Establishing the scope and terms of the delegation,  
17 consistent with the purposes and terms of the trust; and

18 (3) Periodically reviewing the agent's actions in order to  
19 monitor the agent's performance and compliance with the terms of  
20 the delegation.

21 2. In performing a delegated function, an agent owes a duty  
22 to the trust to exercise reasonable care to comply with the terms  
23 of the delegation.

24 3. A trustee who complies with the requirements of  
25 subsection 1 of this section is not liable to the beneficiaries

1 or to the trust for the decisions or actions of the agent to whom  
2 the function was delegated.

3 4. By accepting the delegation of a trust function from the  
4 trustee of a trust that is subject to the law of this state, an  
5 agent submits to the jurisdiction of the courts of this state  
6 even if the delegation agreement provides otherwise.

7 [456.910.] 469.910. The following terms or comparable  
8 language in the provisions of a trust, unless otherwise limited  
9 or modified, authorize any investment or strategy permitted under  
10 this act: "investments permissible by law for investment of  
11 trust funds", "legal investments", "authorized investments",  
12 "using the judgment and care under the circumstances then  
13 prevailing that persons of prudence, discretion, and intelligence  
14 exercise in the management of their own affairs, not in regard to  
15 speculation but in regard to the permanent disposition of their  
16 funds, considering the probable income as well as the probable  
17 safety of their capital", "prudent man rule", "prudent trustee  
18 rule", "prudent person rule", and "prudent investor rule".

19 [456.911.] 469.911. Except as otherwise specifically  
20 provided in the terms of the trust or in sections [456.500 to  
21 456.913] 456.035 to 456.041 and sections 469.900 to 469.913, the  
22 provisions of sections [456.500 to 456.913] 456.035 to 456.041  
23 and sections 469.900 to 469.913 shall apply to any trust  
24 established before or after August 28, [1996] 2004, and to any  
25 trust asset acquired by the trustee before or after August 28,

1       [1996] 2004.

2               [456.912.] 469.912. This act shall be applied and construed  
3 to effectuate its general purpose to make uniform the law with  
4 respect to the subject of this act among the states enacting it.

5               [456.913.] 469.913. The general assembly recognizes that  
6 persons, corporations, entities or state agencies who have  
7 responsibility for investing funds may be subject to a standard  
8 that is specifically set forth in other statutes. Under such  
9 circumstances, such persons, corporations, entities or state  
10 agencies shall comply with the standard of investment set forth  
11 in the other statute, and this act shall not modify or repeal  
12 that standard.

13               Section 1. There shall be a rebuttable presumption of undue  
14 influence for any transfer of assets or bequest or devise to the  
15 benefit of any in-home health care provider who is not related to  
16 the grantor within the third degree of consanguinity. Such  
17 presumption shall not apply to reasonable payments for services  
18 rendered nor to transfers of less than five percent of the assets  
19 of the grantor.

20               [456.010. 1. All declarations or  
21 creations of trust of any lands, tenements or  
22 hereditaments shall be manifested and proved  
23 by some writing signed by the party who is,  
24 or shall be, by law, enabled to declare such  
25 trusts, or by his last will, in writing, or  
26 else they shall be void.

27               2. When any conveyance shall be made of  
28 any lands, tenements or hereditaments, by  
29 which a trust may arise or result by the  
30 implication or construction of law, such  
31 trust shall be excepted from the requirements

1 of subsection 1.

2 3. All grants and assignments of the  
3 interest of a beneficiary under any trust of  
4 real or personal property shall be in writing  
5 signed by the party granting or assigning the  
6 same, or by his or her last will, in writing,  
7 or else they shall be void.]

8 [456.016. Sections 456.015 and 456.016  
9 shall be effective with respect to wills and  
10 revocable inter vivos trusts executed or  
11 created before or after October 13, 1969, by  
12 persons who die on or after said date, and to  
13 irrevocable inter vivos trusts which are  
14 created on or after October 13, 1969.]

15 [456.055. A trust for care of pet  
16 animals or other lawful specific  
17 noncharitable purpose, society or  
18 organization may be carried out by the  
19 intended trustee or a successor trustee for  
20 twenty-one years or any shorter period  
21 specified by the terms of the trust although  
22 it has no ascertainable human beneficiary or  
23 might, by its terms, last longer than the  
24 period of the rule against perpetuities.]

25 [456.080. 1. All restraints upon the  
26 right of the cestui que trust to alienate or  
27 anticipate the income of any trust estate in  
28 the form of a spendthrift trust, or  
29 otherwise, and all attempts to withdraw the  
30 income of any trust estate from the claims of  
31 creditors of the cestui que trust, whether  
32 such restraints be by will or deed, now  
33 existing or in force, or, which may be  
34 hereafter executed in this state, be and the  
35 same are hereby declared null and void and of  
36 no effect, as against the claims of any wife,  
37 child or children, of such cestui que trust  
38 for support and maintenance.

39 2. The settlor may provide in the terms  
40 of the trust that the interest of a  
41 beneficiary may not be either voluntarily or  
42 involuntarily transferred before payment or  
43 delivery of the interest to the beneficiary  
44 by the trustee.

45 3. A provision restraining the voluntary  
46 or involuntary transfer of beneficial  
47 interests in a trust will prevent the

1 settlor's creditors from satisfying claims  
2 from the trust assets except:  
3 (1) Where the conveyance of assets to  
4 the trust was intended to hinder, delay, or  
5 defraud creditors or purchasers, pursuant to  
6 section 428.020, RSMo; or  
7 (2) To the extent of the settlor's  
8 beneficial interest in the trust assets, if  
9 at the time the trust was established or  
10 amended:  
11 (a) The settlor was the sole beneficiary  
12 of either the income or principal of the  
13 trust or retained the power to revoke or  
14 amend the trust; or  
15 (b) The settlor was one of a class of  
16 beneficiaries and retained a right to receive  
17 a specific portion of the income or principal  
18 of the trust that was determinable solely  
19 from the provisions of the trust instrument.  
20 4. Subsection 3 of this section shall  
21 not apply to spendthrift trusts described,  
22 defined, or established pursuant to section  
23 456.072.]

24 [456.090. Each county in this state  
25 shall have the power of acting as trustee for  
26 charitable uses, and as such trustee to take  
27 and hold by gift, grant, bequest or devise,  
28 money and other property, real, personal and  
29 mixed, to it given, granted, bequeathed or  
30 devised, in trust for charitable uses, and  
31 shall have the power, by and through its  
32 county commission, of executing trusts  
33 created in it for charitable uses in as full  
34 and ample a manner as an individual;  
35 provided, however, that gifts, grants,  
36 bequests or devises to provide medals,  
37 awards, prizes, scholarships, or other things  
38 to be given in or under the direction of any  
39 public school in such county shall be deemed  
40 a charitable use, within the meaning of  
41 sections 456.090 to 456.110.]

42 [456.100. In all cases where heretofore  
43 money or other property, real, personal or  
44 mixed, has been given, granted, bequeathed or  
45 devised, in trust for charitable uses to any  
46 county in this state, or to the county  
47 commission of any county in this state, or to  
48 the commissioners of any county commission in

1 this state, whether the individual names of  
2 such commissioners were or were not inserted  
3 in the instrument of gift, grant, bequest or  
4 devise, and there remains in the possession  
5 or control, or both, of the county named in  
6 said instrument, such money or other property  
7 and the increase thereof, or any portion of  
8 the same, then in all such cases the gift,  
9 grant, bequest or devise of money or other  
10 property shall be deemed and taken by all  
11 courts in this state in law and equity to  
12 have been made to the county mentioned in the  
13 said instrument, and such county shall be  
14 deemed and taken to have been created a  
15 trustee by such instrument, and shall  
16 continue to hold said money or other property  
17 and the increase thereof, or such portion  
18 thereof as remains in its possession or  
19 control, or both, under the trust created by  
20 said instrument, and shall have the power, by  
21 and through its county commission, to execute  
22 the trust created by such instrument in as  
23 full and ample manner as an individual.]

24 [456.110. All counties which have been  
25 created and all counties which shall  
26 hereafter be created trustees for charitable  
27 uses, together with the trust property held  
28 or that may be held by them, shall be under  
29 the supervision and control of the circuit  
30 courts of the respective counties, and said  
31 counties, by and through their respective  
32 county commissions, may at any time apply to  
33 their respective circuit courts for advice  
34 and directions in the execution of their  
35 trusts for charitable uses.]

36 [456.120. 1. The trustee may be a  
37 natural person, corporation, limited  
38 liability company formed pursuant to chapter  
39 347, RSMo, association or partnership with  
40 the capacity to take and hold property except  
41 as provided in subsection 2 of this section.  
42 2. No corporation, partnership or association  
43 organized under the law of a state or country  
44 other than the state of Missouri and no  
45 United States national banking association  
46 having its principal place of business  
47 outside of the state of Missouri shall have  
48 the capacity to act as trustee in Missouri

1       except as otherwise provided by section  
2       362.600, RSMo.]

3               [456.130. Every trustee appointed or who  
4       may be appointed, by any last will, deed or  
5       other instrument of writing, to hold, manage  
6       or dispose of any property or estate, real,  
7       personal or mixed, for the use or benefit of  
8       any other person, may be required by the  
9       circuit court of the county in which any such  
10      will shall be proved and recorded, or in  
11      which such deed or instrument of writing  
12      shall be recorded, to give bond, in such sum  
13      and with such securities as the court shall  
14      direct, conditioned for the faithful  
15      execution of the trust, unless the will, deed  
16      or other instrument of writing, creating such  
17      trust, shall, in express terms, dispense with  
18      security.]

19              [456.140. Any person having beneficial  
20      interest, present or future, absolute or  
21      contingent, in the trust property, may apply  
22      to such court for security, by a petition in  
23      writing, stating plainly and briefly why  
24      security ought to be given by the trustee,  
25      and shall deliver to the trustee a copy of  
26      the petition, and a notice, in writing, of  
27      the time when it will be presented, at least  
28      ten days before the application is made.]

29              [456.150. The trustee may answer the  
30      petition, in writing, and the court shall  
31      hear and determine the application summarily,  
32      and shall, as may be just, either reject the  
33      petition or direct the trustee to give  
34      security.]

35              [456.160. When security is directed to  
36      be given, the bond shall be to the state of  
37      Missouri, for the use of all persons  
38      beneficially interested in the trust  
39      property, and in such sum as the court shall  
40      direct, and shall be executed, approved by  
41      the court or judge thereof, and filed in the  
42      office of said court within the time to be  
43      specified in the order of court.]

44              [456.170. If the trustee fail to give  
45      bond and security in the time and manner



1 required by the court, his trusteeship, and  
2 all his title, right and power to, in and  
3 over the trust property, shall cease, and the  
4 court shall appoint a new trustee in his  
5 stead, who shall immediately be invested with  
6 all the title, right and power of the former  
7 trustee.]

8 [456.180. The court may, upon its own  
9 motion or upon the application of any person  
10 interested, require and cause the new trustee  
11 from time to time, and as often as may be, to  
12 give such security as shall be sufficient to  
13 insure the faithful execution of the trust,  
14 or, in default thereof, to dismiss him, and  
15 appoint another trustee in his stead, who  
16 will give the required security, to be  
17 approved by the court.]

18 [456.183. A trustee may resign at any  
19 time by written notice of the resignation to  
20 the settlor, if living, to a cotrustee, if  
21 any, and to the beneficiaries then entitled  
22 to receive or eligible to have the benefit of  
23 the income from the trust estate.]

24 [456.185. If a trustee resigns:  
25 (1) The remaining trustee, if any, shall  
26 continue to act, with all the rights, powers  
27 and duties, of all the trustees; or  
28 (2) If there is no remaining trustee,  
29 the resigning trustee shall continue serving  
30 until a successor is appointed and a  
31 successor trustee may be appointed by a  
32 majority in interest of the beneficiaries  
33 then entitled to receive the income from the  
34 trust estate or, if the interest of the  
35 income beneficiaries is\* indefinite, by a  
36 majority in number of the beneficiaries then  
37 eligible to have the benefit of the income of  
38 the trust estate, by an instrument in writing  
39 delivered to the successor, who shall become  
40 a successor trustee upon written acceptance  
41 of the appointment.]

42 [456.187. 1. A successor trustee shall  
43 have all the rights, powers and duties, which  
44 are granted to or imposed on the predecessor.  
45 2. A successor trustee shall be under no  
46 duty to inquire into the acts or doings of a

1 predecessor trustee, and is liable only for  
2 any act or failure to act of a predecessor  
3 trustee of which the successor trustee had  
4 actual knowledge and which the successor  
5 trustee fails to reveal to a majority in  
6 interest of the beneficiaries entitled, at  
7 the time of succession, to receive or  
8 eligible to have the benefit of the income  
9 from the trust.

10 3. With the approval of a majority in  
11 interest of the beneficiaries then entitled  
12 to receive or eligible to have the benefit of  
13 the income from the trust, a successor  
14 trustee may accept the account rendered and  
15 the property received as a full and complete  
16 discharge to the predecessor trustee without  
17 incurring any liability for so doing.]

18 [456.190. If any trustee appointed by  
19 any last will, deed or other instrument of  
20 writing to hold, manage or dispose of any  
21 property or estate, real, personal or mixed,  
22 for the use or benefit of any person or  
23 purpose shall die, or has died, shall become  
24 or has become mentally incapacitated or  
25 disabled, shall tender his resignation as  
26 such trustee, shall neglect or refuse or has  
27 neglected or refused to act as such trustee,  
28 or shall or has become unable, by sickness or  
29 other disability to perform or execute his  
30 trust, the trustee or a beneficiary, his or  
31 her heirs, legal representatives or assigns  
32 may present his or their affidavit, stating  
33 the facts of the case, specifically, to the  
34 circuit court of the county in which the  
35 trust property, or any part thereof, is  
36 situated or in which the will creating the  
37 trust has been proved or recorded.]

38 [456.195. Unless all beneficiaries of  
39 the trust having the capacity to contract and  
40 to transfer property consent to the  
41 appointment of a named proposed successor  
42 trustee in an affidavit filed pursuant to the  
43 provisions of section 456.190, notice of  
44 hearing is required to be given pursuant to  
45 the provisions of section 472.300, RSMo.]

46 [456.200. If such court shall be  
47 satisfied that the facts stated in such

1 affidavit are true, it shall make an order  
2 appointing a suitable trustee in the place of  
3 the prior trustee to hold the trust property  
4 to the same uses and trusts under and subject  
5 to the same powers and conditions as the same  
6 was held by the prior trustee, and who shall  
7 do and perform all the acts and things that  
8 the original trustee had power to do and  
9 perform, with the same force and effect, and  
10 shall thereby be substituted to and vested  
11 with the same title and interest in the trust  
12 property as was vested in and possessed by  
13 the prior trustee, and shall have the same  
14 power and right to convey and dispose of such  
15 title as the prior trustee had.]

16 [456.210. When the circuit court of any  
17 county has acquired jurisdiction over the  
18 trustee and beneficiaries of a trust incident  
19 to a proceeding for removal or appointment of  
20 a trustee, instructions to a trustee,  
21 accounting by a trustee, reimbursement,  
22 exoneration or surcharge of a trustee, or  
23 construction of the terms of the trust, it  
24 may, in its decree granting or denying relief  
25 in such proceeding, retain jurisdiction for  
26 the purpose of entertaining later proceedings  
27 of any of such types with reference to the  
28 trust so that no more notice need be given of  
29 such later proceedings than that required for  
30 hearings on motions during the pendency of a  
31 suit.]

32 [456.220. 1. Unless previously barred  
33 by adjudication, consent or limitation, any  
34 cause of action against a trustee for breach  
35 of trust shall be barred as to any  
36 beneficiary who has received a final account  
37 or other statement fully disclosing the  
38 matter and showing termination of the trust  
39 relationship between the trustee and the  
40 beneficiary unless a proceeding to assert the  
41 cause of action is commenced within five  
42 years after receipt of the final account or  
43 statement by him or, if he is a minor or  
44 disabled person, by a guardian or conservator  
45 of his estate; provided that, if a minor or  
46 disabled person has no guardian or  
47 conservator of his estate, then such cause of  
48 action shall not be barred until one year

1 after the removal of such disability. The  
2 cause of action thus barred does not include  
3 any action to recover from a trustee for  
4 fraud, misrepresentation or concealment  
5 related to the settlement of the trust.

6 2. Any person shall be presumed to have  
7 received such a final account or statement as  
8 of the date such final account or statement  
9 is delivered personally to such person or  
10 mailed to such person at his last address  
11 known to the trustee.

12 3. Notwithstanding the above, all  
13 causes of action against a trustee for breach  
14 of trust or other action pertaining to the  
15 administration of the trust shall be barred  
16 as to all beneficiaries twenty-two years  
17 after the date of final termination of the  
18 trust.

19 4. The limitations herein shall apply  
20 to trusts terminating before or after the  
21 enactment of this section; provided, however,  
22 that as to trusts terminating before  
23 enactment, the limitations shall not apply  
24 until two years after September 28, 1983.]

25 [456.225. 1. Before rendering any  
26 decree of partial or final distribution of  
27 any bequest or devise in trust, the probate  
28 division of the circuit court, in its  
29 discretion, may require any trustee named as  
30 distributee in the will creating such trust  
31 to file bond, in an amount and with security  
32 fixed by the court, conditioned upon the  
33 faithful performance of the duties of the  
34 trustee, except the court shall not require a  
35 bond if the will which creates the trust  
36 directs that no bond shall be required of the  
37 trustee or trustees. No bond shall be  
38 required if the trustee is the surviving  
39 spouse of the testator or if the trustee or  
40 any cotrustee of the trust is a corporation  
41 and has a certificate of the director of  
42 finance of the state of Missouri that it has  
43 complied with the provisions of section  
44 362.115, RSMo.]

45 [456.233. Unless the terms of the trust  
46 provide otherwise or unless waived in writing  
47 by an adult, competent beneficiary, the  
48 trustee shall deliver a written statement of

1 accounts to each income beneficiary or his  
2 personal representative at least annually.  
3 The statement shall contain at least:  
4 (1) A list of all receipts and  
5 disbursements since the last statement; and  
6 (2) All items of trust property held by  
7 the trustee on the date of the statement at  
8 their cost basis, if known, and their market  
9 value, if readily ascertainable.]  
10  
11 [456.234. The meaning of a disposition  
12 in an instrument creating or amending a trust  
13 shall be determined by the local law of a  
14 particular state selected by the settlor in  
15 his instrument unless the application of that  
16 law is contrary to the public policy of this  
17 state otherwise applicable to the  
18 disposition.]  
19  
20 [456.440. 1. By accepting the  
21 trusteeship of a trust of which the principal  
22 place of administration is in this state, or  
23 by moving the principal place of  
24 administration of a trust to this state, the  
25 trustee submits personally to the courts of  
26 this state in proceedings involving internal  
27 affairs of such trust as to any matter  
28 relating to such internal affairs of the  
29 trust arising while the principal place of  
30 administration is located in this state.  
31 2. To the extent of the beneficial  
32 interests in a trust of which the principal  
33 place of administration is in this state, the  
34 beneficiaries of the trust are subject to the  
35 jurisdiction of the courts of this state for  
36 purposes of proceedings involving internal  
affairs of that trust.]  
37  
38 [456.450. 1. Venue for proceedings  
39 involving the internal affairs of registered  
40 trusts is in the place of registration. Venue  
41 for proceedings involving the internal  
42 affairs of trusts not registered in this  
43 state is in any place where the trust  
44 properly could have been registered, and  
45 otherwise by the rules of civil procedure.  
46 2. Where a judicial proceeding under  
47 this chapter could be maintained in more than  
48 one place in this state, the court in which  
the proceeding is first commenced has the

1 exclusive right to proceed.

2 3. If proceedings concerning the same  
3 trust are commenced in more than one court of  
4 this state, the court in which the proceeding  
5 was first commenced shall continue to hear  
6 the matter, and the other courts shall hold  
7 the matter in abeyance until the question of  
8 venue is decided, and if the ruling court  
9 determines that venue is properly in another  
10 court, it shall transfer the proceeding to  
11 the other court.

12 4. If a court finds that in the interest  
13 of justice a proceeding or a file should be  
14 located in another court of this state, the  
15 court making the finding may transfer the  
16 proceeding or file to the other court.]

17 [456.460. The court may, even over the  
18 objection of a party, entertain proceedings  
19 involving the internal affairs of a trust  
20 registered or having its principal place of  
21 administration in another state when all  
22 appropriate parties could not be bound by  
23 litigation in the courts of the state where  
24 the trust is registered or has its principal  
25 place of administration; or when the  
26 interests of justice otherwise would  
27 seriously be impaired. The court may  
28 condition a stay or dismissal of a proceeding  
29 on the consent of any party to jurisdiction  
30 of the state in which the trust is registered  
31 or has its principal place of business, or  
32 the court may grant a continuance or enter  
33 any other appropriate order.]

34 [456.470. Except as otherwise  
35 specifically provided in this chapter or by  
36 rule, every document filed with the court  
37 under this chapter, including applications,  
38 petitions, and demands for notice, shall be  
39 deemed to include an oath, affirmation or  
40 statement to the effect that its  
41 representations are true as far as the person  
42 executing or filing it knows or is informed.]

43 [456.480. 1. Unless otherwise provided  
44 by the terms of the contract, a trustee is  
45 not individually liable on a contract  
46 properly entered into in his fiduciary  
47 capacity in the course of administration of

1 the trust, unless he fails to reveal his  
2 fiduciary capacity and identify the trust in  
3 the contract.

4 2. A trustee is individually liable for  
5 obligations arising from ownership or control  
6 of the trust assets or for torts committed in  
7 the course of administration of the trust  
8 only if he is personally at fault.

9 3. Claims based on contracts entered  
10 into by a trustee in his fiduciary capacity,  
11 on obligations arising from ownership or  
12 control of the trust assets, or on torts  
13 committed in the course of trust  
14 administration may be asserted against the  
15 trust by proceeding against the trustee in  
16 his fiduciary capacity, whether or not the  
17 trustee is individually liable therefor.

18 4. Issues of liability as between the  
19 trust and the trustee individually may be  
20 determined in a proceeding for accounting,  
21 surcharge or indemnification, or other  
22 appropriate proceeding.

23 5. A trustee who is a member of a  
24 partnership in his fiduciary capacity only is  
25 not individually liable for the obligations  
26 of the partnership but claims based upon such  
27 obligations may be asserted against the trust  
28 by proceeding against the trustee in his  
29 fiduciary capacity.]

30 [456.490. For the purpose of granting  
31 consent or approval with regard to the acts  
32 or accounts of a trustee, including relief  
33 from liability or penalty for failure to post  
34 bond, or to perform other duties, and for  
35 purposes of consenting to modification or  
36 termination of a trust or to deviation from  
37 its terms, the sole holder or all coholders  
38 of a presently exercisable general power of  
39 appointment, including one in the form of a  
40 power of amendment or revocation, are deemed  
41 to act for beneficiaries to the extent their  
42 interests, as objects, takers in default, or  
43 otherwise, are subject to the power.]

44 [456.500. As used in sections 456.500 to  
45 456.600:

46 (1) "Prudent investor" means:

47 (a) In the case of decisions and actions  
48 taken before August 28, 1996, a trustee whose

1 exercise of trust powers is reasonable and  
2 equitable in view of the interests of income  
3 or principal beneficiaries, or both, and in  
4 view of the manner in which men of ordinary  
5 prudence, diligence, discretion, and judgment  
6 would act in the management of the affairs of  
7 others; and

8 (b) In the case of decisions and actions  
9 taken on or after August 28, 1996, a trustee  
10 whose exercise of trust powers is in  
11 accordance with the provisions of the  
12 Missouri prudent investor act, sections  
13 456.900 to 456.913;

14 (2) "Trust" means an express trust  
15 created by a trust instrument, including a  
16 will, whereby a trustee has the duty to  
17 administer a trust asset for the benefit of a  
18 named or otherwise described income or  
19 principal beneficiary, or both; "trust" does  
20 not include a resulting or constructive  
21 trust, a business trust which provides for  
22 certificates to be issued to the beneficiary,  
23 an investment trust, a voting trust, a  
24 security instrument, a trust created by the  
25 judgment or decree of a court, a liquidation  
26 trust, or a trust for the primary purpose of  
27 paying dividends, interests, interest  
28 coupons, salaries, wages, pensions or  
29 profits, or employee benefits of any kind, an  
30 instrument wherein a person is nominee or  
31 escrowee for another, a trust created in  
32 deposits in any financial institution, or  
33 other trust the nature of which does not  
34 admit of general trust administration;

35 (3) "Trustee" means an original, added,  
36 or successor trustee.]

37 [456.510. 1. The trustee has all powers  
38 conferred upon him by the provisions of  
39 sections 456.500 to 456.600, unless limited  
40 by the trust instrument.

41 2. An instrument which is not a trust as  
42 defined in section 456.500 may incorporate  
43 any part of sections 456.500 to 456.600 by  
44 reference.]

45 [456.520. 1. From time of creation of  
46 the trust until final distribution of the  
47 assets of the trust, a trustee has the power  
48 to perform, without court authorization,



1 every act which a prudent investor would  
2 perform for the purposes of the trust  
3 including but not limited to the powers  
4 specified in subsection 3 of this section.  
5 2. In the exercise of the trustee's  
6 powers including the powers granted by this  
7 chapter, a trustee has a duty to act with due  
8 regard to the trustee's obligation as a  
9 fiduciary.  
10 3. A trustee has the power, subject to  
11 subsections 1 and 2 of this section:  
12 (1) To collect, hold, and retain trust  
13 assets received from a trustor until, in the  
14 judgment of the trustee, disposition of the  
15 assets should be made; and the assets may be  
16 retained even though they include an asset in  
17 which the trustee is personally interested;  
18 (2) To receive additions to the assets  
19 of the trust;  
20 (3) To continue or participate in the  
21 operation of any business or other  
22 enterprise, and to effect incorporations,  
23 dissolution, or other change in the form of  
24 the organization of the business or  
25 enterprise;  
26 (4) To acquire an undivided interest in  
27 a trust asset in which the trustee, in any  
28 trust capacity, holds an undivided interest;  
29 (5) To invest and reinvest trust assets  
30 in accordance with the provisions of the  
31 trust or as provided by law;  
32 (6) To deposit trust funds in savings  
33 and loan associations, credit unions and  
34 banks, including a bank operated by the  
35 trustee;  
36 (7) To acquire or dispose of an asset,  
37 for cash or on credit, at public or private  
38 sale; and to manage, develop, improve,  
39 exchange, partition, change the character of,  
40 or abandon a trust asset or any interest  
41 therein; and to encumber, mortgage, or pledge  
42 a trust asset for a term within or extending  
43 beyond the term of the trust, in connection  
44 with the exercise of any power vested in the  
45 trustee;  
46 (8) To make ordinary or extraordinary  
47 repairs or alterations in buildings or other  
48 structures, to demolish any improvements, to  
49 raze existing or erect new party walls or  
50 buildings;

1           (9) To subdivide, develop, or dedicate  
2 land to public use; or to make or obtain the  
3 vacation of plats and adjust boundaries; or  
4 to adjust differences in valuation on  
5 exchange or partition by giving or receiving  
6 consideration; or to dedicate easements to  
7 public use without consideration;  
8           (10) To enter for any purpose into a  
9 lease as lessor or lessee with or without  
10 option to purchase or renew for a term within  
11 or extending beyond the term of the trust;  
12           (11) To enter into a lease or  
13 arrangement for exploration and removal of  
14 minerals or other natural resources or enter  
15 into a pooling or unitization agreement;  
16           (12) To grant an option involving  
17 disposition of a trust asset, or to take an  
18 option for the acquisition of any asset;  
19           (13) To vote a security, in person or by  
20 general or limited proxy;  
21           (14) To pay calls, assessments, and any  
22 other sums chargeable or accruing against or  
23 on account of securities;  
24           (15) To sell or exercise stock  
25 subscription or conversion rights; directly  
26 or through a committee or other agent, to  
27 consent to or oppose the reorganization,  
28 consolidation, merger, dissolution, or  
29 liquidation of a corporation or other  
30 business enterprise;  
31           (16) To hold a security in the name of a  
32 nominee or in other form without disclosure  
33 of the trust, so that title to the security  
34 may pass by delivery, but the trustee is  
35 liable for any act of the nominee in  
36 connection with the security so held;  
37           (17) To insure the assets of the trust  
38 against damage or loss, and the trustee  
39 against liability with respect to third  
40 persons;  
41           (18) To borrow money from any person  
42 including the trustee to be repaid from or  
43 secured by trust assets or otherwise; to  
44 advance money for the protection of the  
45 trust, and for all expenses, losses, and  
46 liability sustained in the administration of  
47 the trust or because of the holding or  
48 ownership of any trust assets, for which  
49 advances with any interest the trustee has a  
50 lien on the trust assets as against the

1 beneficiary;  
2 (19) To pay or contest any claim; to  
3 settle a claim by or against the trust by  
4 compromise, arbitration, or otherwise; and to  
5 release, in whole or in part, any claim  
6 belonging to the trust to the extent that the  
7 claim is uncollectible;  
8 (20) To pay taxes, assessments,  
9 compensation of the trustee, and other  
10 expenses incurred in the collection, care,  
11 administration, and protection of the trust;  
12 (21) To allocate items of income or  
13 expense to either trust income or principal,  
14 as provided by this chapter, including  
15 creation of reserves out of income for  
16 depreciation, obsolescence, or amortization,  
17 or for depletion in mineral or timber  
18 properties;  
19 (22) To pay any sum distributable to a  
20 beneficiary under legal disability, without  
21 liability to the trustee, by paying the sum  
22 to the beneficiary or by paying the sum for  
23 the use of the beneficiary;  
24 (23) To effect distribution of property  
25 and money in divided or undivided interests  
26 and to adjust resulting differences in  
27 valuation;  
28 (24) To employ or contract with persons,  
29 including attorneys, accountants, investment  
30 advisors, or agents, even if they are  
31 associated or affiliated with the trustee, to  
32 provide brokerage investment products,  
33 administrative (whether or not  
34 discretionary), custodial or other account  
35 services to advise or assist the trustee in  
36 the performance of the trustee's  
37 administrative duties; to act without  
38 independent investigation upon their  
39 recommendations; or instead of acting  
40 personally, to employ one or more agents to  
41 perform any act of administration, whether or  
42 not discretionary;  
43 (25) To prosecute or defend actions,  
44 claims, or proceedings for the protection of  
45 trust assets and of the trustee in the  
46 performance of the trustee's duties;  
47 (26) To execute and deliver all  
48 instruments which will accomplish or  
49 facilitate the exercise of the powers vested  
50 in the trustee;

1           (27) To invest and reinvest trust assets  
2     in United States government obligations,  
3     either directly or in the form of securities  
4     of, or other interests in, any open-end or  
5     closed-end management type investment company  
6     or investment trust registered pursuant to  
7     the Investment Company Act of 1940, as  
8     amended, provided that the governing  
9     instrument or order directs, requires,  
10    authorizes, or permits investment in United  
11    States government obligations, and provided  
12    that the portfolio of such investment company  
13    or investment trust is limited to United  
14    States government obligations and to  
15    repurchase agreements fully collateralized by  
16    such obligations, and provided further that  
17    such investment company or investment trust  
18    shall take delivery of such collateral;

19           (28) To invest and reinvest trust assets  
20    in securities or obligations of any state or  
21    its political subdivisions, including  
22    securities or obligations that are  
23    underwritten by the trustee or an affiliate  
24    of the trustee or a syndicate in which the  
25    trustee or an affiliate of the trustee is a  
26    member which in addition to meeting the  
27    standards pursuant to subsections 1 and 2 of  
28    this section also meet the standards  
29    established by the division of finance  
30    pursuant to subsection 5 of section 362.550,  
31    RSMo;

32           (29) To divide any trust, before or  
33    after its initial funding, into two or more  
34    separate trusts, and to make payments or  
35    distributions that are authorized by or  
36    directed in the governing instrument from any  
37    one or more of such separate trusts.]

38           [456.524. 1. A trustee shall be entitled  
39    to reasonable compensation for services  
40    rendered. For purposes of this section,  
41    "reasonable compensation" may include fees  
42    that take into account the administration of  
43    both income and principal.

44           2. The provisions of this section shall  
45    apply to all testamentary and inter vivos  
46    trusts upon and after August 28, 1998,  
47    whether established before or after such  
48    date, and whether or not the will or trust  
49    instrument contains provisions relating to

1 compensation of the trustee; provided that  
2 this section shall not apply to the extent of  
3 any inconsistency between the provisions of  
4 this section and the provisions of the will  
5 or trust instrument.]

6 [456.530. Unless otherwise permitted by  
7 law or the governing instrument, the trustee  
8 shall not transfer his office to another or  
9 delegate the entire administration of the  
10 trust to a cotrustee or another.]

11 [456.535. 1. Unless the terms of the  
12 trust refer to this section and provide  
13 otherwise, a power exercisable by or  
14 attributable to a person, other than the  
15 settlor, in such person's capacity as a  
16 trustee or because the person is deemed to  
17 have any power of a trustee, whether because  
18 such person has the right to remove or  
19 replace any trustee or because a reciprocal  
20 trust or power doctrine applies or otherwise,  
21 to make discretionary distribution of either  
22 principal or income:

23 (1) To or for the benefit of himself or  
24 herself shall be exercisable only for his or  
25 her health, education and support in his or  
26 her accustomed manner of living; or

27 (2) To or for the benefit of others  
28 shall not be exercisable to discharge any of  
29 his or her legal obligations.

30 2. The provisions of this section apply  
31 to any trust established before or after  
32 August 13, 1986.]

33 [456.540. 1. Any power vested in three  
34 or more trustees may be exercised by a  
35 majority, but a trustee who has not joined in  
36 exercising a power is not liable to the  
37 beneficiaries or to others for the  
38 consequences of the exercise; and a  
39 dissenting trustee is not liable for the  
40 consequences of an act in which he joins at  
41 the direction of the majority of the  
42 trustees, if he expressed his dissent in  
43 writing to any of his cotrustees at or before  
44 the time of the joinder.

45 2. If two or more trustees are appointed  
46 to perform a trust, and if any of them is  
47 unable or refuses to accept the appointment,

1 or, having accepted, ceases to be a trustee,  
2 the surviving or remaining trustees shall  
3 perform the trust and succeed to all the  
4 powers, duties, and discretionary authority  
5 given to the trustees jointly.

6 3. This section does not excuse a  
7 cotrustee from liability for failure either  
8 to participate in the administration of the  
9 trust or to attempt to prevent a breach of  
10 trust.

11 4. Unless the terms of the trust refer  
12 to this subsection and provide otherwise, a  
13 power conferred upon two or more persons,  
14 none of whom is the settlor, in their  
15 capacity as trustees to make discretionary  
16 distribution of either principal or income to  
17 or for the benefit of one of them, cannot be  
18 exercised by such person, but it shall be  
19 exercisable by the trustee or trustees who  
20 are not so disqualified. The provisions of  
21 this subsection apply to any trust  
22 established before or after August 13, 1986.]

23 [456.550. Unless the terms of the trust  
24 provide otherwise, when an instrument  
25 creating or amending the terms of a trust  
26 authorizes or directs one or more of several  
27 cotrustees or other persons to perform  
28 designated duties, other cotrustees are not  
29 under a duty to inquire into or participate  
30 in the performance of any such duties by the  
31 cotrustee or cotrustees or other persons  
32 authorized or directed to perform it alone in  
33 the absence of actual knowledge that the  
34 former is or are contemplating, committing or  
35 concealing a breach of trust.]

36 [456.560. With respect to a third person  
37 dealing with a trustee or assisting a trustee  
38 in the conduct of a transaction, the  
39 existence of trust powers and their proper  
40 exercise by the trustee may be assumed  
41 without inquiry. The third person is not  
42 bound to inquire whether the trustee has  
43 power to act or is properly exercising the  
44 power; and a third person, without actual  
45 knowledge that the trustee is exceeding his  
46 powers or improperly exercising them, is  
47 fully protected in dealing with the trustee  
48 as if the trustee possessed and properly

1 exercised the powers he purports to exercise.  
2 A third person is not bound to assure the  
3 proper application of trust assets paid or  
4 delivered to the trustee.]

5 [456.570. 1. A court of competent  
6 jurisdiction for cause shown and upon  
7 petition of the trustee or affected  
8 beneficiary and upon appropriate notice to  
9 the affected parties may relieve a trustee  
10 from any restrictions on his power that would  
11 otherwise be placed upon him by the trust or  
12 by this chapter.

13 2. If the duty of the trustee and his  
14 individual interest or his interest as  
15 trustee of another trust, conflict in the  
16 exercise of a trust power, the power may be  
17 exercised only by court authorization, except  
18 as provided in subdivisions (1), (4), (6),  
19 (18), (24) and (28) of subsection 3 of  
20 section 456.520, upon petition of the  
21 trustee. Under this section, personal profit  
22 or advantage to an affiliated or subsidiary  
23 company or association is personal profit to  
24 any corporate trustee. The mere fact that the  
25 trustee is also the trustee of another trust  
26 or personal representative of an estate with  
27 which transactions are conducted does not, of  
28 and in itself, create a conflict of  
29 interest.]

30 [456.580. When a trustee or beneficial  
31 owner of a present estate in land is unable  
32 to convey or mortgage a merchantable title in  
33 fee simple, to give an indefeasible lease for  
34 ninety-nine years, or to make improvements to  
35 the land, because his estate is for life or  
36 in determinable or defeasible fee simple and  
37 such a conveyance, mortgage, lease or  
38 improvement is needed to assure a reasonable  
39 income, considering the market value of the  
40 land, a court of competent jurisdiction may  
41 and, unless it finds that the transaction  
42 will injure the holder or holders of a future  
43 interest in the land, shall, authorize the  
44 trustee or beneficial owner to convey or  
45 mortgage the fee simple, to give a lease for  
46 any period up to ninety-nine years or to make  
47 improvements. Any transaction so authorized  
48 shall be binding upon all persons with

1 interests in the land. If sale is authorized,  
2 the proceeds shall be held in trust for the  
3 holders of present and future beneficial  
4 interests as their interests shall appear. If  
5 mortgage is authorized, the money borrowed  
6 shall be used to pay for improvements on the  
7 land; any surplus to be held upon trust as in  
8 the case of sale proceeds.]

9 [456.610. 1. Any trustee who has a duty  
10 or power to pay the debts of a decedent may  
11 publish a notice in some newspaper published  
12 in the county once a week for four  
13 consecutive weeks in substantially the  
14 following form:

15 To all persons interested in the estate of  
16 ....., decedent. The undersigned  
17 ..... is acting as Trustee  
18 under a trust the terms of which provide that  
19 the debts of the decedent may be paid by the  
20 Trustee(s) upon receipt of proper proof  
21 thereof. The address of the Trustee is  
22 .....  
23 ..... . All creditors of the  
24 decedent are noticed to present their claims  
25 to the undersigned within six (6) months from  
26 the date of the first publication of this  
27 notice or be forever barred.  
28 .....  
29 Trustee

30 2. If such publication is duly made by  
31 the trustee, any debts not presented to the  
32 trustee within six months from the date of  
33 the first publication of the aforesaid notice  
34 shall be forever barred as against the  
35 trustee and the trust property.]

36 [456.630. 1. Notwithstanding any  
37 provision of law to the contrary, whenever  
38 fraud has been perpetrated in connection with  
39 any proceeding under this chapter or if fraud  
40 is used to avoid or circumvent the provisions  
41 of purposes of this chapter, any person  
42 injured thereby may obtain appropriate relief  
43 against the perpetrator of the fraud,  
44 including restitution from any person, other  
45 than a bona fide purchaser, benefiting from  
46 the fraud, whether innocent or not. Any such  
47 proceeding must be commenced within two years



1 after the discovery of the fraud but no  
2 proceeding may be brought against one not a  
3 perpetrator of the fraud later than ten years  
4 after the time of commission of the fraud.  
5 This section has no bearing on remedies  
6 relating to fraud practiced on a settlor  
7 during his lifetime which affects validity of  
8 a trust or succession to its assets.  
9 2. For the purpose of subsections 2 to 4  
10 of this section:  
11 (1) "Fraud" includes the transfer of  
12 funds to any spendthrift trust, including a  
13 trust qualifying as a spendthrift trust under  
14 the provisions of section 456.072, where the  
15 party committing fraud transfers funds to the  
16 trust and such transfer is fraudulent as to a  
17 creditor of such party in that such party  
18 transferred such funds:  
19 (a) With intent to hinder, delay, or  
20 prevent the creditor from collecting a lawful  
21 debt;  
22 (b) When such party was, or shortly  
23 before he became, insolvent;  
24 (c) When such party was not paying his  
25 debts as they became due; or  
26 (d) While any creditor lawsuit was  
27 pending against such party;  
28 (2) "Party committing fraud" includes  
29 any grantor, any person who makes a transfer  
30 to the trust, beneficiary, participant, or  
31 other similar party of the trust who makes  
32 use of a spendthrift trust to commit fraud or  
33 attempt to commit fraud against creditors.  
34 3. In addition to any other remedies  
35 under subsection 1 of this section, any  
36 person injured by a party committing fraud  
37 may obtain appropriate relief against such  
38 party, where the fraud was committed within  
39 three years prior to filing a petition for  
40 relief under Title 11 of the United States  
41 Code, or three years prior to the discovery  
42 of such fraud. The action for fraud shall  
43 survive the death of the party committing  
44 fraud. Such action shall be limited by the  
45 earlier of the time period provided by  
46 section 456.610 or a one-year period after  
47 death.  
48 4. Any spendthrift trust that otherwise  
49 qualifies as part of a plan or contract that  
50 is exempt under sections 401(a), 403(a),

1 403(b), and 409 of the Internal Revenue Code  
2 of 1986, as amended, where the funds  
3 contributed to such qualified plan or  
4 contract were contributed no less often than  
5 annually as a part of employee benefits, and  
6 including funds transferred under section 408  
7 of such code permitting rollovers, when such  
8 funds were originally contributed to such  
9 qualified plan or contract no less often than  
10 annually as a part of employee benefits is  
11 exempt from subsections 2 to 4 of this  
12 section, provided such contributions were  
13 permitted by the Internal Revenue Code for  
14 the years in question.]

15 [456.670. Unless displaced by the  
16 particular provisions of this chapter, the  
17 principles of law and equity supplement its  
18 provisions.]